

*DRAFT*

# **Bosnia and Herzegovina Justice Sector Reform Strategy**

**2008 - 2012**

November 2007

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## FOREWORD

In March 2006, during a Conference on the funding needs of the State Justice Institutions of Bosnia and Herzegovina held in Brussels, the Council of Ministers of Bosnia and Herzegovina, Donor Countries and the European Commission made a declaration in which they committed to the principle that the Ministry of Justice of Bosnia and Herzegovina should develop a comprehensive Justice Sector Plan covering the entire country. The declaration envisioned that such a strategy would “*serve as a catalyst for further developing and strengthening of the Justice Sector of Bosnia and Herzegovina as a whole*”.

Although national strategies and plans, such as the Medium Term Development Strategy and Public Administration Reform Strategy, as well as international agreements such as the European Partnership Plan, do provide high level frameworks to guide some aspects of planning and budgeting in the justice sector of Bosnia and Herzegovina, to date there has been no single strategy that focuses solely on the sector as a coherent system made up of an inter-related set of institutions.

In practice this has proven to be an impediment in several regards. For one, the lack of coherent and coordinated action in the justice sector risks undermining the positive effects achieved so far through reform of the justice sector. It also hinders justice sector institutions in their planning and prioritisation of the use of the limited resources made available to it. Furthermore, without a sector-wide strategy the close interrelations between the various institutions and components of the justice sector and the affects one set of reform initiatives in one segment of the sector have on the other are not taken into consideration when planning.

This Strategy was created as part of a joint cooperative effort between the ministries of justice of the State of Bosnia and Herzegovina, the entities, and cantons, as well as the High Judicial and Prosecutorial Council. It is the result of a highly participatory and consultative process that encompassed key institutions acting within the justice sector in Bosnia Herzegovina including representatives of professional associations of judges and prosecutors, bar associations, association of mediators and NGOs. Its aim is to provide strategic guidelines for addressing key issues within the justice sector over a five year timeframe.

We use this opportunity to thank all those who have actively contributed to the development of this Strategy either through participation in the working groups formed for the purpose of the development of this Strategy or through participation in the consultation process throughout the Strategy development. We would also like to thank the UK Department for International Development for their technical support in the preparation of this Strategy.

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OF BOSNIA AND  
HERZEGOVINA

MINISTRY OF JUSTICE OF  
THE FEDERATION OF  
BOSNIA AND  
HERZEGOVINA

MINISTRY OF JUSTICE  
OF REPUBLIKA  
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## EXECUTIVE SUMMARY

**Background to the initiative.** The Ministry of Justice of Bosnia and Herzegovina began development of this Justice Sector Reform Strategy for Bosnia and Herzegovina (hereinafter the JSRS) in December 2006 with assistance from the UK Department for International Development. The need for such a Strategy was first recognised as a result of a conference on the funding needs of the State Justice Institutions of Bosnia and Herzegovina, which was held in Brussels in March 2006. The objective of the JSRS is to create a joint framework for reform which will assist each justice sector institution in Bosnia and Herzegovina to make an effective contribution to the achievement of the agreed goals and measures for the future development of the justice sector, which will be reflected in their institutional strategic or action plans.

**Development of the JSRS.** The approach to developing the JSRS reflected the intricate and complex governance arrangements within the justice sector of Bosnia and Herzegovina. It has involved extensive consultations, aimed at securing consensus between key justice sector institutions in Bosnia and Herzegovina on the future directions of reform. These took place from December 2006 to November 2007. The JSRS is also based on the findings and recommendations found in a range of key strategic documents in Bosnia and Herzegovina relevant for the justice sector. It also took as a starting point some key drivers of reform which were identified during the initial phases of JSRS development. Based on the strategic guidelines and directions derived from these documents and consultations, five key pillars of reform were identified:

- 1) Judicial System;
- 2) Execution of Criminal Sanctions;
- 3) Access to Justice;
- 4) Support to Economic Growth and
- 5) Coordination, Management and Accountability of the Sector

**Bodies responsible for JSRS development.** The development of the JSRS was overseen by a Steering Board, comprising the ministers of justice of: the State Ministry of Justice of Bosnia and Herzegovina; the Federation of Bosnia and Herzegovina, the Republika Srpska, Posavina and Tuzla canton; plus the President of the Brčko District Judicial Commission; and the President of the High Judicial and Prosecutorial Council. For each of the identified pillars of reform, a technical-advisory working group was established to propose to the Steering Board: the strategic objectives for each of the strategic pillars; a set of medium- to long-term actions (i.e. strategic programs) to address key issues within the pillars; timeframes within which to implement the programs; institutions responsible for the implementation of actions, and key indicators to assess progress against each of the programs. The objectives and programs agreed through this process are presented in summary form in Table 1 on the following page and represent the strategic framework for reform for the justice sector in Bosnia and Herzegovina for the period 2008 – 2012.

**Implementation of the JSRS.** Responsibility for implementation of activities envisaged in the JSRS and achievement of its goals lies with the institutions identified in the Strategy. Considering the large number of institutions involved, coordination of implementation activities will be of great importance. The overall coordination of implementation activities will be entrusted to the Sector for Strategic Planning, Aid Coordination and European Integration (SSPACEI), of the Ministry of Justice of Bosnia and Herzegovina. Strategic planning units are envisaged in the entity Ministries of Justice. Once these are established, they will provide support to the SSPACEI in overall coordination and implementation.

**Role of Ministerial conferences.** The Strategy recommends the establishment of bi-annual Justice Sector Ministerial Conferences. Apart from closely monitoring the implementation of the Strategy and providing the political and strategic direction for the Strategy, Ministerial Conferences may also be used as a forum for discussing related issues which are of concern for the justice sector. If prepared and managed successfully, Ministerial Conferences may become an example of good practice for other sectors, in seeking to improve the level of coordination and cooperation among key stakeholders. SSPACEI will be in charge of preparing the proposed Justice Sector Ministerial Conferences and also for performing the role of technical secretariat and advisor to them.

**Role of permanent functional working groups.** The Strategy recommends that for each of the strategic pillars, permanent functional working groups be established and meet quarterly. These will be responsible for developing annual joint work plans and for taking forward all the activities identified within their pillar. The Steering Board responsible for overseeing the development and approval of this Strategy is responsible for appointing these working groups before its current mandate expires. Ministries of Justice of Bosnia and Herzegovina, represented by their respective secretaries or assistant ministers (depending on the strategic pillar in question), should be members of these working groups, together with other key justice sector stakeholders (such as the HJPC and others).

**Systems for assessing progress.** The collection and distribution of information on progress made against the JSRS indicators will be a key component of monitoring and evaluating reform initiatives throughout the justice sector in Bosnia and Herzegovina. The indicators defined in this strategy have been designed to reflect the current rudimentary state of performance management systems, as well as the modest capacities within the relevant justice sector institutions, particularly the ministries of justice, to analyse performance information in relation to policy. The strategic planning units of Bosnia and Herzegovina and the entities, in particular SSPACEI, will be tasked with maintaining a relatively simple yet effective system of monitoring progress against the JSRS.

**Links to institutional strategic plans and budgets.** The JSRS is a preliminary step towards a coordinated, continuous cycle of strategy development, planning and implementation of interventions for the ministries of justice (including the Brcko District Judicial Commission), and more generally the governments in Bosnia and Herzegovina. Additional effort and resources need to be committed by all other justice sector institutions to cascade the implementation, monitoring and assessment of JSRS objectives, primarily through the development and execution of strategic plans for each institution. Actions taken to accomplish the JSRS objectives also need to be coordinated and consistent with the medium-term expenditure frameworks at each level, and must be reflected in the budget submissions of each of the institutions to which this strategy relates. If additional resources are needed, negotiations based on the rationale presented in this document need to be initiated with ministries of finance and governments.

Vision

An efficient, effective and coordinated justice system in BiH that is accountable to all BiH citizens and is fully aligned with EU standards and best practices, guaranteeing the rule of law

Pillars of Reform

JUDICIAL SYSTEM	EXECUTION OF CRIMINAL SANCTIONS	ACCESS TO JUSTICE	SUPPORT TO ECONOMIC SECTOR GROWTH	COORDINATED, WELL-MANAGED AND ACCOUNTABLE SECTOR
Further strengthen and maintain independence, accountability, efficiency, professionalism and harmonisation of the judicial system which ensures the rule of law in BiH	Develop a more harmonised system of criminal sanctions in BiH which by respecting European standards ensures humane and legal treatment and effective re-socialisation in prisons in BiH	Advance the system of international legal assistance and establish, strengthen and maintain systems and processes that guarantee equal access to justice in BiH	Define and implement measures through which the justice sector will contribute to creation of a more favourable environment for sustainable economic development in BiH	Coordinate and make roles and responsibilities of key justice sector institutions more efficient, with the aim of achieving more effective, transparent and accountable justice system in BiH

Strategic Objectives

STRATEGIC PROGRAMS

Look into possibility of harmonising the procedure for selection of the BiH Constitutional Court judges with the existing procedures for the selection of judges for entity Constitutional Courts  
Conduct analysis of the required changes to legislation, with the aim of decreasing the number of backlog cases  
Improve provisions pertaining to disciplinary responsibility of the judges and prosecutors in the Law on HJPC BiH  
Reform and improve the system of bar exams in BiH  
Develop and adopt a plan for funding the reconstruction of the courts from domestic, credit and donor resources, based on the architectural and technical plan of the HJPC  
Develop policy and pass appropriate regulation, regulating the administration of the courts and prosecutor's offices  
Develop and round off the application of time measures in all courts and prosecutor's offices in BiH  
Begin setting up a system of foreseeable timeframes in processing cases in courts, in line with the recommendations of the Council of Europe (CEPEJ)  
Establish a legal obligation of hiring apprentices, apprentices - volunteers and expert associates in all courts and prosecutor's offices in BiH  
Development of the study about realistic financial needs of the judicial institutions in BiH, taking into consideration priorities in the judiciary  
Establish single substantive and procedural laws in criminal and civil matters  
Option no. 1: Establish a body for harmonisation of court practice in BiH. Option no. 2: Establish Supreme Court at the state level that would ensure harmonised court practice in BiH  
Development and implementation of formal mechanism for preparing, adopting and executing budget of the judicial institutions in BiH which ensure independence of judiciary  
Option no. 1: Creating a single budget for the judicial institutions in FBiH Option no. 2: Financing budget of the judicial institutions from a single source  
Implement in full the information and communication strategy of the courts and prosecutors' offices developed by the HJPC  
Provide continuous training in management for managerial staff in the institutions of the BiH judiciary  
Implement the adopted medium-term strategic plans for training of the judges and prosecutors CEST FBiH, CEST RS and BD JC  
Strengthening capacities of the Justice Ministry and HJPC in preparation and execution of the budget, in line with the competencies as defined in the law

Pass framework Law on criminal sanctions execution in BiH and harmonise all regulations pertaining to criminal sanctions execution  
Conduct re-categorisation of the prisons and classification within the prisons  
Develop conditional release system  
Advance the system of treatment for specific categories of prison population (minors, women and persons under obligatory treatment)  
Advance the system of health protection for the entire prison population  
Establish a system of independent prison inspection in BiH  
Achieve recognition for execution of alternative sentences and implement the "community service" institute  
Improve conditions by reconstructing existing prisons, abandoned military facilities and construction of the state prison  
Develop and implement coherent system of education and training for prison staff in BiH  
Establish prison administrations

Execution of Criminal Sanctions

Strategic Objectives	Further strengthen and maintain independence, accountability, efficiency, professionalism and harmonisation of the judicial system which ensures the rule of law in BiH	Develop a more harmonised system of criminal sanctions in BiH which by respecting European standards ensures humane and legal treatment and effective re-socialisation in prisons in BiH	Advance the system of international legal assistance and establish, strengthen and maintain systems and processes that guarantee equal access to justice in BiH	Define and implement measures through which the justice sector will contribute to creation of a more favourable environment for sustainable economic development in BiH	Coordinate and make roles and responsibilities of key justice sector institutions more efficient, with the aim of achieving more effective, transparent and accountable justice system in BiH
	<b>STRATEGIC PROGRAMS</b>				
Access to Justice	<p>Pass a new law on international legal aid and cooperation in criminal matters in BiH</p> <p>Establish a registry of convictions for BiH citizens convicted abroad</p> <p>Create legal and institutional framework for the establishment of the free legal aid system in BiH in criminal and civil matters</p> <p>Explore modalities for a more active engagement of the NGO sector in BiH in monitoring the justice sector work in BiH</p> <p>Establish mechanisms that ensure targeted professional development programme for judges, prosecutors and civil servants in international legal aid and cooperation</p> <p>Ensure harmonisation of the court practice in BiH related to international legal aid and cooperation</p> <p>Define legal and institutional framework for continuous implementation of the training programme for free legal aid providers</p> <p>Ensure full implementation of the Care of Court Users Strategy in BiH</p> <p>Increase the level of information accessible on organisation and work of the courts and prosecutor's offices in BiH to the wider BiH public</p> <p>Define precisely the extradition and transfer procedure for the convicted persons and set up financing procedure through budgets of the appropriate ministries and BD JC</p> <p>Analyse the established free legal aid system in criminal and civil cases, focusing on effectiveness and efficiency of the free legal aid system</p>				
Support to Economic Growth	<p>Develop criteria and regulations regulating the number and status of the land registry employees</p> <p>Define clear mechanisms and activities of promoting and encouraging the use of mediation among the judges in BiH</p> <p>Ensure unified standards of quality in terms of providing services in the land registry offices</p> <p>Strengthen the role of the BiH MoJ in defining policies for the alternative dispute resolution and in the establishment of the system of evaluation and monitoring of mediation</p> <p>Finalise legislative framework needed for optimal functioning of the land registry system</p> <p>Ensure strategic guidelines for development of the ADS</p> <p>Promote benefits of the alternative dispute resolution at the level of BiH executive authorities</p> <p>Continue promoting alternative dispute resolution among the businesses, legal representatives and the academic community</p> <p>Advance capacities of the Association of Mediators in BiH with regards to development of human resources, standardisation system, training, licensing and service provision</p> <p>Continuously conduct training on successful referral of cases for mediation, as part of the professional development of the judges and initial training</p> <p>Ensure a system of mediation services provision throughout BiH</p> <p>Strengthen capacities of the entity MoJs for the land registry system needs</p> <p>Strengthen capacities of the land registry offices in terms of the land registry administration needs</p> <p>Ensure mechanisms for harmonised legislation in the land registry sector in BiH</p> <p>Contribute to better coordination with institutions in the land registry administration sector</p> <p>Conduct a study on modalities of the wider application of mediation and other types of alternative dispute resolution in BiH</p>				
Well-managed Sector	<p>Strengthen the coordinating role of the BiH MoJ</p> <p>Establish institutional capacities for strategic planning and policy development</p> <p>Establish and hold ministerial conferences, with HUPC President in attendance as well</p> <p>Develop and maintain a system of collection, analysis and exchange of all relevant information among the key justice sector institutions</p> <p>Establish and maintain a mechanism for coordination of the justice sector institutions to effectively coordinate with the donors</p> <p>Establish the infrastructure and capacities in BiH and Entity MoJs for support to the process of regulation harmonisation in the BiH justice sector with the Acquis Communautaire</p>				

## STRUCTURE OF THE STRATEGY

This Strategy lays down the strategic programs that all those acting within and in areas that affect the justice sector need to undertake and to achieve in order to address the issues it is currently facing. The overall reform process is a highly cooperative process that fully reflects the legislative, institutional and political complexity of Bosnia and Herzegovina.

**Section 1** provides the introduction to the Justice Sector Reform Strategy for Bosnia and Herzegovina (hereinafter the JSRS) by presenting the principal aims and outcomes of the JSRS, as well as the methodology used for its development and adoption. The latter involved a highly consensual and cooperative process in which all relevant justice sector institutions in Bosnia and Herzegovina were included.

**Section 2** sets forth the key drivers of reform, reflecting upon key reform components, which were derived from strategic documents of relevance for the justice sector, and also on specific drivers for currently needed reform initiatives of the justice sector in Bosnia and Herzegovina.

**Section 3** presents the specific set of issues, grouped into broad areas or pillars of reform. Although not all-encompassing, the issues set out here reflect the key components of reform stemming from the critical documents and are those that must be resolved in the coming five-year period if the key drivers for further reforms in the justice sector are to be addressed.

**Section 4** lays down the vision statement and the strategic objectives for the justice sector of Bosnia and Herzegovina in the period 2008 – 2012, which have been agreed by the relevant justice sector institutions.

**Section 5** sets forth the strategic programs. These are a set of agreed activities to be implemented by 2012 in order to address the key strategic issues identified in this Strategy and to accomplish the agreed vision and strategic objectives for the justice sector in Bosnia and Herzegovina.

**Section 6** provides an overview of the medium-term budgetary forecasts for the justice sector in Bosnia and Herzegovina and the potential implications this can have on the JSRS implementation.

**Sections 7** sets down the main factors to consider in relation to the implementation of the JSRS in the following five-year period. It includes discussion of the governance arrangements for decision-making and monitoring of the JSRS, as well as provides an overview of key policy initiatives (including concrete policy analyses and legislative initiatives) foreseen by the JSRS.

**Section 8** explores the main considerations for individual justice sector institutions as they develop or revise individual institutional strategic plans to be in line with the broad strategic directions set out in this document.

**Annex I** provides more information on the institutions and individuals who participated in the development of the JSRS and the timeline of their meetings.

**Annex II** provides more detailed information on the consultation process conducted throughout the JSRS development.



## SECTION 1: INTRODUCTION TO THE JUSTICE SECTOR REFORM STRATEGY

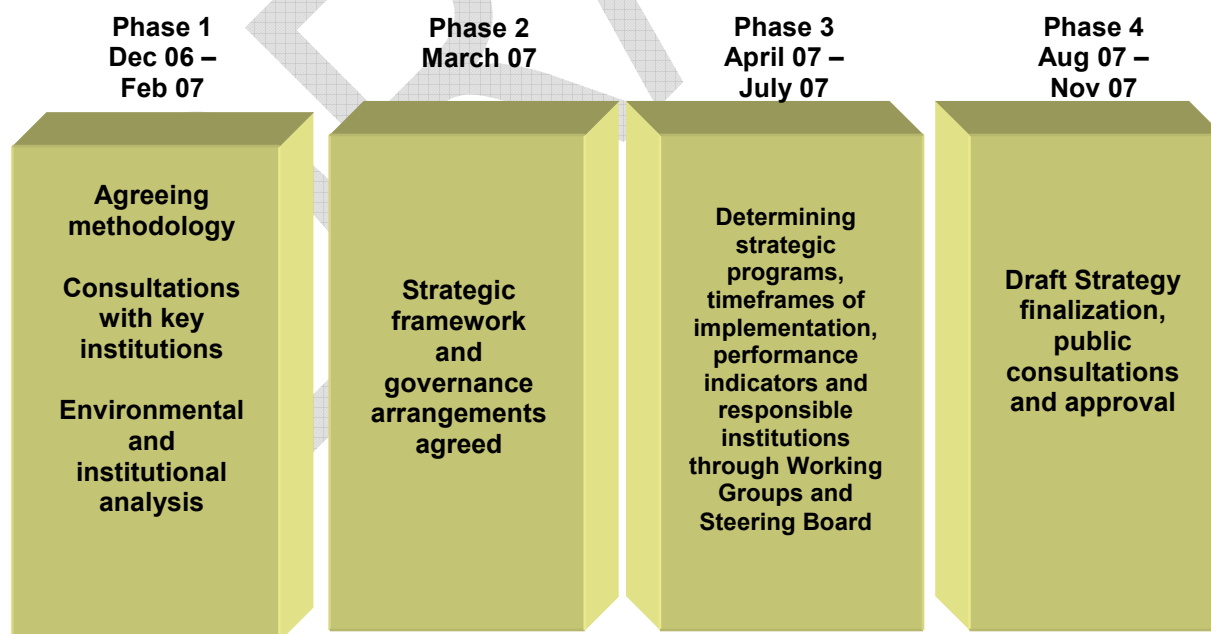
Based on the conclusions of the Conference on the funding needs of the State Justice Institutions of Bosnia and Herzegovina, held in Brussels in March 2006, and with technical assistance from the UK Department for International Development (DfID), the Ministry of Justice of Bosnia and Herzegovina commenced the development of a Justice Sector Reform Strategy for Bosnia and Herzegovina (hereinafter the JSRS) in December 2006. The ultimate objective of the JSRS is the creation of a joint framework for each institution of the justice sector in Bosnia and Herzegovina to make an effective contribution to the accomplishment of the goals and measures agreed in the Strategy through their institutional strategic or action plans.

The other desired outcomes of the JSRS include:

- *Agreeing a common vision of the justice sector among key institutions and agreeing high priority and realistic actions for reform;*
- *Developing a framework for identifying potential projects for Instruments for Pre-Accession assistance and other donor funding and*
- *Enhancing communication, coordination and cooperation between the various institutions and segments of the justice sector in Bosnia and Herzegovina.*

The methodology of the JSRS development was purposefully aligned to the complex governance arrangements within the sector. It was therefore structured around conducting extensive consultations and securing consensus of key justice sector institutions in Bosnia and Herzegovina on future directions of reform. The actual development process was divided into four distinct phases, which are presented in Figure 1 below.

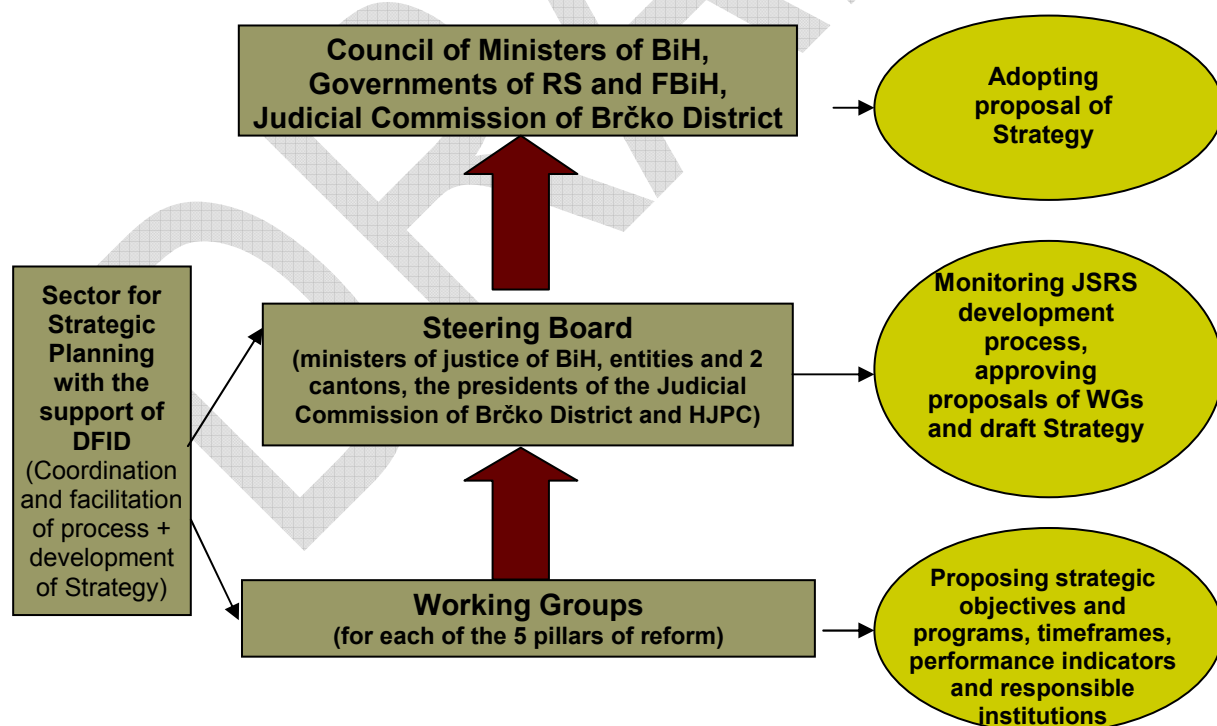
Figure 1: Development phases of the Justice Sector Reform Strategy of Bosnia and Herzegovina



The different phases set out in Figure one are discussed in more detail below:

- **Phase 1:** In the period from December 2006 to February 2007 a series of activities took place. Firstly, an analysis of existing strategic documents, such as the European Partnership, the Strategy for EU Integration of Bosnia and Herzegovina and the Medium-term Development Strategy, was made in order to identify all agreed measures of relevance to the justice sector in Bosnia and Herzegovina. Structured questionnaires were sent to over 30 different justice sector institutions and direct interviews were conducted with around 20 of them (including relevant professional associations and representatives of civil society) in order to gain insight into the priorities and issues of the justice sector from the perspective of individual institutions. Likewise, direct interviews were held with around 15 different international institutions and donor agencies. Finally, this phase resulted in the identification of the key drivers of reform and the needed pillars of reform (the 'strategic framework of reform'), as well as in the identification of the governance arrangements for further JSRS development and approval, all of which were accepted by the institutions consulted in this phase.
- **Phase 2:** On March 28<sup>th</sup> 2007 a meeting was held with the ministers of justice of the State and entity levels, the President of the Brčko District Judicial Commission, and the President of the High Judicial and Prosecutorial Council at which time political endorsement was given to the proposed strategic framework of reform and the governance arrangements of JSRS development and approval. The governance structure for the JSRS and the relevant roles and responsibilities of each of the relevant institutions is presented in Figure 2 below.

Figure 2: Roles and responsibilities of JSRS development and adoption



- **Phase 3:** From April to July 2007, five working groups, each focusing on one of the 5 pillars of justice sector reform identified in Phase 2, met to discuss and agree upon strategic objectives for each of the pillars of reform (Judicial System, Execution of Criminal Sanctions, Access to Justice, Support to Economic Growth and Well-managed and Coordinated Sector). They also discussed the key strategic programs of action needed to accomplish these objectives and address key issues, as well as proposed timeframes of implementation, indicators of performance and institutions responsible for implementation of strategic programs.

The Working Groups comprised justice sector institutions of relevance to the strategic area in question, including representatives of the ministries of justice of Bosnia and Herzegovina, the entities and selected cantons, the Brčko District Judicial Commission and High Judicial and Prosecutorial Council (hereinafter the HJPC) and also representatives of professional associations of judges and prosecutors, bar associations and non-governmental organizations active in the justice sector. Representatives of relevant donor agencies working within each of the five pillars of reform also attended the Working Group meetings acting as observers. The Steering Board for the JSRS, which comprised ministers of justice of Bosnia and Herzegovina, entities and two cantons, the presidents of the Judicial Commission of Brčko District and HJPC met twice in this period to discuss and decide upon the proposals of the Working Groups. Annex 1 provides more detail on the JSRS Working Groups and Steering Board.

- **Phase 4:** Based on the decisions of the Steering Board the first draft of the Justice Sector Reform Strategy was developed and made available for public consultations organized through focus group discussions held during September and October 2007. The draft document was made available for review and comment by the wider public by having it posted to the web site of the Ministry of Justice of Bosnia and Herzegovina. Based on the comments generated through this consultation process, a revised draft of the JSRS was presented to the Steering Board for final approval. After this, the JSRS was submitted to respective governments for review and approval. Annex 2 provides more detailed information on the consultation process conducted during this phase.

## SECTION 2: KEY DRIVERS FOR REFORM

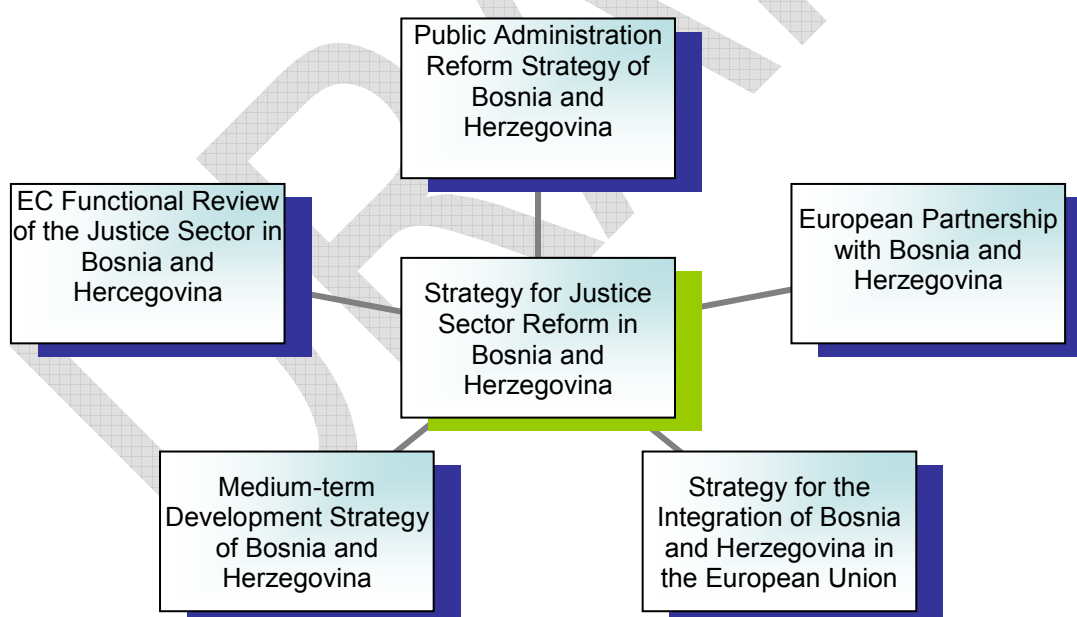
During Phase 1 of the JSRS development process (as explained in Section 1) a number of key drivers of reform were identified. These formed the basis for the initiatives identified in the JSRS and which will be described in more detail in the following section.

Recent years have seen significant progress in the reform of the justice sector in Bosnia and Herzegovina, particularly in the area of the judiciary. Nonetheless, the justice sector in Bosnia and Herzegovina is currently at a crossroads. The sustainability of reforms executed to date is in doubt, unless action is taken to build upon achievements made, as well as to address weaknesses still persistent within the overall justice system. However, all agreed initiatives for reform in the justice sector must be aligned with overall reform initiatives in Bosnia and Herzegovina as further explained below.

### *Existing reform initiatives of relevance to the justice sector*

In the context of overall reform initiatives and requirements initiated by or placed before the governments of Bosnia and Herzegovina, the major directions of action for the justice sector in the medium- to long-term have been set by relevant country-wide strategies adopted by the governments in Bosnia and Herzegovina, as well as by international agreements and relevant analyses conducted by international organizations. These strategic documents are graphically presented in Figure 3.

**Figure 3: Strategic documents of relevance for justice sector reform in BiH**

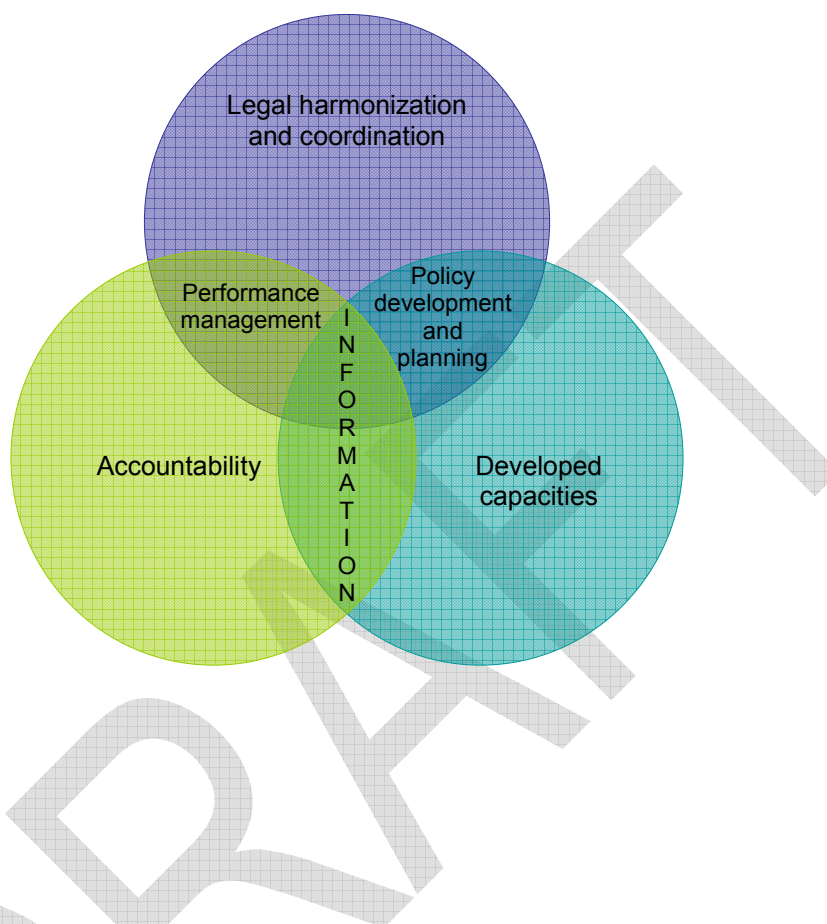


Although the individual actions, requirements and recommendations set out in these documents differ, a number of highly interrelated key components of overall reform **have emerged from them** as being necessary to underscore all main reform and EU integration initiatives. These components are presented below.

- The forthcoming European integration process, coupled with the complex decentralized structure of Bosnia and Herzegovina, necessitates establishing mechanisms for ensuring **legal harmonization**, as well as **effective and efficient policy coordination** between levels of government;
- However, effective harmonization and coordination are highly difficult to achieve without **developed capacities within government bodies**, notably in regards to staff numbers, skills and equipment;
- Capacities pertaining to **policy development and strategic planning**, particularly within centres of government and ministries, are those currently most needed to uphold the systems of harmonization and coordination in such a way that they can effectively answer the increasing demands of reform;
- **Systems of accountability** must be put in place to provide assurance that reform initiatives are answering the demands of the public and the European integration process alike;
- The key to greater levels of accountability, as well as effective harmonization and coordination is establishing **performance management systems** that enable decision-makers, as well as the public to, better to assess progress achieved in reform initiatives and in areas in which additional initiatives are needed;
- Underpinning each of these segments and sub-segments are the ways in which **information is collected, shared, analysed and presented** as preconditions for effective management of current and future reform initiatives throughout Bosnia and Herzegovina for all segments of reform.

This is presented graphically in Figure 4 below.

**Figure 4: Key components of reform emerging from strategic documents of relevance to justice sector in Bosnia and Herzegovina**

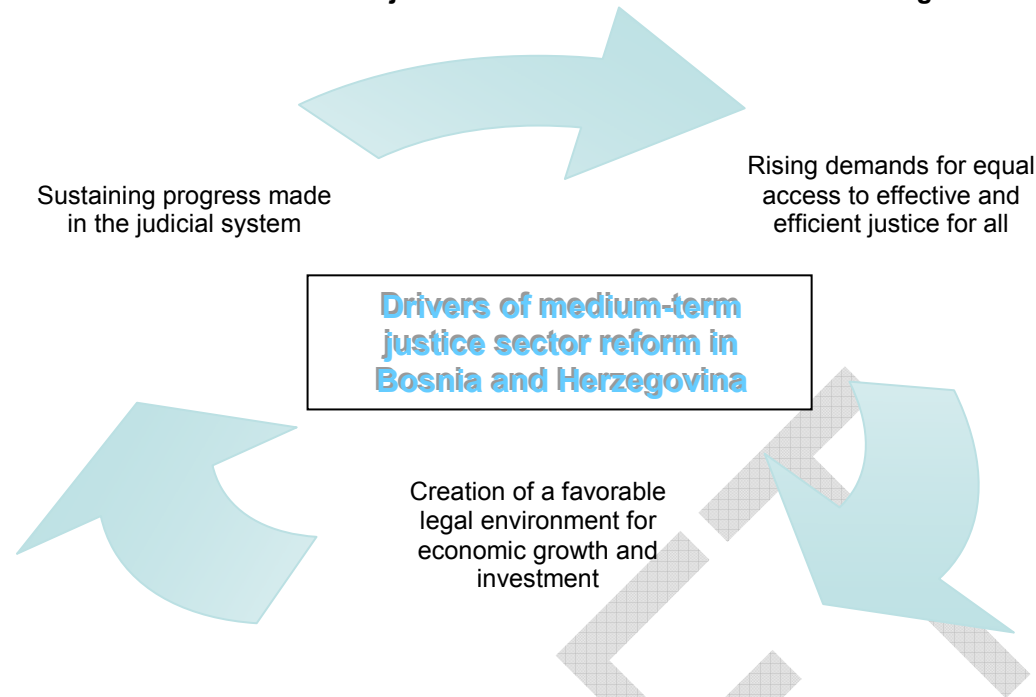


### ***Drivers of Reform***

The key components of reform laid out in the strategic documents relevant for the justice sector in Bosnia and Herzegovina have, directly or indirectly, permeated the five-year Justice Sector Reform Strategy in Bosnia and Herzegovina.

As described in Section 1, an early activity was to identify the key components of reform emerging from existing strategic documents. Further analysis of these issues and consultation across the sector led to a number of key drivers of reform being identified. These are explained in the subsequent section, and are graphically presented in Figure 5 below:

**Figure 5: Drivers of medium-term justice sector reform in Bosnia and Herzegovina**



- **Sustaining the progress made in the judicial system (criminal and civil justice reform).** There has already been considerable progress in reforms of the judicial system in Bosnia and Herzegovina. Progress achieved so far relates primarily to the formation of a High Judicial Prosecutorial Council for Bosnia and Herzegovina which creates the preconditions for an independent, effective and efficient judiciary. Furthermore, changes to the criminal and civil procedures have enabled Bosnia and Herzegovina to come closer towards achieving European standards and best practices in the delivery of justice. However, there remain issues of coordination and harmonization within the judiciary and between levels of government, as well as issues of institutional capacity and budgetary funding. These threaten to undermine the positive results achieved so far, thus necessitating swift action in relation to harmonization of laws and court practice, consolidating budgetary funding of the judiciary, eliminating the crippling backlog of cases within the courts and slow court execution, as well as securing judicial accountability and professionalism. A further key factor in sustaining the progress made to date in criminal and justice reform is the need for thorough and comprehensive reform of the system for execution of criminal sanctions, which has markedly lagged behind judicial and police reform within the overall reform of the criminal justice sector.
- **Rising demands for the rule of law, and equal access to effective and efficient justice for all.** Recent justice sector reforms have raised the expectations of the public towards the judiciary. Citizens and NGOs are increasingly demanding greater transparency and efficiency from justice sector institutions. The complex governance arrangements of the country, coupled with persistent fiscal constraints, renders the system vulnerable to inequalities. The poor general economic conditions also risk compromising the ability of individuals and legal entities to ensure their rights are legally exercised before justice institutions in Bosnia and Herzegovina. Key factors in increasing equal access to justice include raising public awareness about the ways in which the justice sector should operate and how information can and should be accessed. Likewise, the lack of a comprehensive legal aid system for criminal and civil cases must be rectified in order to ensure that economic status does not inhibit one's capacity to pursue one's rights before the law.

- **Creation of a favourable legal environment for economic growth and investment.** Sustainable economic progress is one of the key overall objectives in the long term for Bosnia and Herzegovina. The justice sector plays a significant role in fostering economic growth and stability. For that purpose, in the medium- to long-term period, the justice sector has clearly to demonstrate effectiveness, efficiency and transparency in its work. These are critical contributory factors which will enhance increased investments and commercial activities. Of particular importance are the mechanisms that are supported by the justice sector to ensure the swift and effective resolution of disputes between commercial entities. Equally important for sustainable economic growth are systems to define and protect property ownership rights.

Each of these drivers of reform place a set of specific issues and challenges before the justice sector institutions which need to be addressed in the near future. The following Section of the Strategy puts forward the basic pillars of reform in the justice sector in Bosnia and Herzegovina which will enable these drivers to be addressed, and presents the specific key issues that this Strategy aims to address in the following five-year period.



### SECTION 3: PILLARS OF REFORM IN THE JUSTICE SECTOR

The current justice sector in Bosnia and Herzegovina faces a number of issues that require immediate attention in the coming five-year period. These issues can be grouped into several broad areas. Although the justice sector itself encompasses much more than the areas identified for the purpose of this Strategy, it has been concluded that interventions in these areas will produce the greatest effects in relation to the implementation of key components of reform, and will answer the specific demands of justice sector reform as identified in Section 2 of this Strategy.

The three main areas, or *pillars*, of reform in the justice sector which directly stem from the key drivers of reform as identified in Section 2 are the following:

- *The judicial system*
- *Increasing access to justice, and*
- *Supporting economic growth.*

However, as stated previously, one of the key preconditions for sustaining progress achieved in criminal justice reform to-date is the reform of the system for execution of criminal sanctions. Given the multitude of issues that need to be addressed in this area, for the purpose of this Strategy, the area of execution of criminal sanctions has been identified as a fourth pillar of reform in the following five-year period.

Underlying each of these key areas of reform is a further consideration which is of particular importance in Bosnia and Herzegovina, given the complex legal and institutional arrangements. Systems, processes and capacities for coordinating and harmonising reforms are imperative to ensure that reform efforts on each of the levels are geared towards similar strategic directions and are aligned with the requirements of pending EU integration. Likewise, unless the capacities of ministries of justice to manage the reforms and hold themselves and others accountable for progress achieved (or not) are developed, the success of the planned reforms are highly questionable. Thus, issues relating to the coordination, management and accountability of the justice sector have been identified as a fifth pillar of reform.

The key areas, i.e. the pillars of justice sector reform in the following five-year period, are presented graphically below:

**Figure 6: Pillars of justice-sector reform**



Table 1 provides a brief overview of the specific issues within these five pillars which shall be treated through this five-year Strategy of reform.  
**Table 1: Overview of five-year issues addressed by Strategy**

Judicial System		Execution of Criminal Sanctions	Access to Justice	Support to Economic Growth
<ul style="list-style-type: none"> <li>The processes governing the preparation, adoption and execution of judicial budgets make the judiciary vulnerable to undue political pressures. <u>The role of the HJPC is not sufficiently enforced and defined in relation to the executive and legislative bodies that would eliminate risks to judicial independence.</u></li> <li>Furthermore, <u>neither the HJPC nor the ministries of justice have sufficient capacity to ensure judicial independence is not endangered either at the beginning of the planning process nor during execution.</u> The problem is exacerbated by the fact that the budgets of the judiciary do not always recognise needs nor <u>strategic priorities of the sector.</u></li> <li><u>Financing of the judiciary is highly fragmented, resulting in large discrepancies in work conditions and staffing of judicial bodies.</u> Fragmentation also hinders efforts in rationalization and cost savings.</li> </ul>	<ul style="list-style-type: none"> <li><u>The HJPC does not have any role in the appointment of members of the Constitutional Court of BiH,</u> which is not the case with entity constitutional courts. Given the current appellate role of the Constitutional Court of BiH, the political influence in naming members is detrimental to judicial independence.</li> <li>Currently there are no mechanisms to ensure and maintain the <u>harmonization of substantive and procedural laws</u> in the area of criminal and civil matters.</li> <li>Likewise, there are no effective institutional or legal mechanisms to ensure <u>harmonized court practise</u> throughout the country.</li> <li><u>The courts are still burdened with issues of court execution:</u> Current practice causes severe delays in the execution procedure and increases the number of backlog cases, with 63% of backlog being cases that have not been executed</li> </ul>	<ul style="list-style-type: none"> <li><u>The largest portion of backlog cases are claims of small values that have failed to be executed</u> (communal services, telephone bills etc). The problem is further exacerbated by the lack of capacities to perform court executions (space, equipment etc).</li> <li>The efficiency and effectiveness of courts, in particular their ability to reduce the 1.8 million of backlog cases, is further hampered by inadequate court facilities and ICT equipment, court management capacities and capabilities, as well as understaffed and unmotivated court administration staff.</li> <li>Performance monitoring and disciplinary procedures for judges and prosecutors needs to be further developed in line with EU standards. Linked to this is the issue of reforming the bar examination system in BiH, introducing a trainee system, and improving training of judges, prosecutors and staff.</li> </ul>	<ul style="list-style-type: none"> <li>The implementation, application of provisions, governing <u>international legal aid</u> is highly divergent within BiH. The situation if further complicated by a lack of unified records of BiH citizens convicted abroad, and <u>insufficient budgetary provisions for extradition.</u></li> <li>There is no unified legal and institutional framework for free legal aid in civil and criminal matters. The system for free legal aid in BiH has to be further defined and developed, as well as evaluated and monitored accordingly.</li> <li>A Care of Court Users Strategy has been adopted and in the medium-term its implementation has to be secured. Further efforts need to be made to increase citizens' access to information regarding the judiciary. There is no clear or common vision of the role of civil society in the overall justice system.</li> </ul>	<ul style="list-style-type: none"> <li>Pilot projects aimed toward introducing commercial mediation into court practise in BiH have concluded. Regulations have been adopted, however the <u>implementation of ADR with positive results throughout BiH is still dependent on commitment of ministries of justice and judiciary alike</u> to support these initiatives and create the basic pre-conditions for the functioning of ADR to its full potential.</li> <li>Aside from having systems for the timely and less costly resolution of commercial disputes, <u>land registry is another key component for enhancing business in BiH.</u> A World Bank supported Land administration reform project is underway, however, a series of challenges need to be answered by governments on all levels to ensure <u>these reforms are successfully concluded.</u></li> </ul>

**Table 2: Overview of five-year issues addressed by Strategy - continued**

Coordinated, Well-Managed and Accountable Sector			
<ul style="list-style-type: none"> <li>There are <u>no effective mechanisms that ensure coordination and cooperation within the justice sector, horizontally or vertically. The responsibility of the State MOJ in sector-wide coordination needs to be strengthened.</u></li> </ul>	<ul style="list-style-type: none"> <li>In the medium-term, <u>the roles of the cantonal ministries of justice in light of recent progress and trends within the justice system, in particular the roles of the judiciary need to be re-examined.</u></li> </ul>	<ul style="list-style-type: none"> <li><u>Capacities for effective and coordinated policy development and analysis and for strategic planning and performance monitoring are still lacking. There are no effective systems for sharing and analysing sector performance information.</u></li> </ul>	<ul style="list-style-type: none"> <li><u>Donor coordination is still fragmented and there is no system which will ensure donor funding is aligned with national strategies.</u></li> <li><u>Capacities and infrastructure for legal harmonization need to be put in place to support EU accession.</u></li> </ul>

Beyond the issues presented above, each institution at each level of government faces its own set of challenges. However the issues addressed in this Strategy are those for which imminent, but also cooperative, coordinated and, in most cases, joint action is needed in order to rectify those deficiencies assessed to be of priority significance for the overall justice system.

Those issues specific to individual institutions will be addressed by them through institutional strategic plans, which will nevertheless sustain the broad directions of action laid down in this Strategy. The main considerations to bear in mind while linking this sector strategy and individual institutional strategies are further elaborated in Section 8.

## SECTION 4: VISION STATEMENT AND STRATEGIC OBJECTIVES

The justice sector in Bosnia and Herzegovina needs to respond to the key drivers of reform and address the issues it is currently facing by striving to achieve a number of requirements in the long-term:

- Efficiency
- Effectiveness
- Alignment with EU standards
- Coordination
- Accountability
- Ensure the rule of law

Therefore, all efforts towards accomplishing reforms in the medium- to long-term should be directed towards accomplishing the following vision for the justice sector in Bosnia and Herzegovina, as expressed through the statement presented below:

### **VISION STATEMENT FOR THE JUSTICE SECTOR IN BiH:**

**An efficient, effective and coordinated justice system in BiH that is accountable to all BiH citizens and is fully aligned with EU standards and best practices, guaranteeing the rule of law**

For each of the pillars of reform identified in Section 2, the following strategic objectives have been set:

### **STRATEGIC OBJECTIVES:**

#### **JUDICIAL SYSTEM:**

Further strengthen and maintain independence, accountability, efficiency, professionalism and harmonisation of the judicial system which ensures the rule of law in BiH

#### **EXECUTION OF CRIMINAL SANCTIONS:**

Develop a more harmonised system of criminal sanctions in BiH which by respecting European standards ensures humane and legal treatment and effective re-socialisation in prisons in BiH

#### **ACCESS TO JUSTICE:**

Advance the system of international legal assistance and establish, strengthen and maintain systems and processes that guarantee equal access to justice in BiH

#### **SUPPORT TO ECONOMIC SECTOR GROWTH:**

Define and implement measures through which the justice sector will contribute to creation of a more favourable environment for sustainable economic development in BiH

### **COORDINATED, WELL-MANAGED AND ACCOUNTABLE SECTOR:**

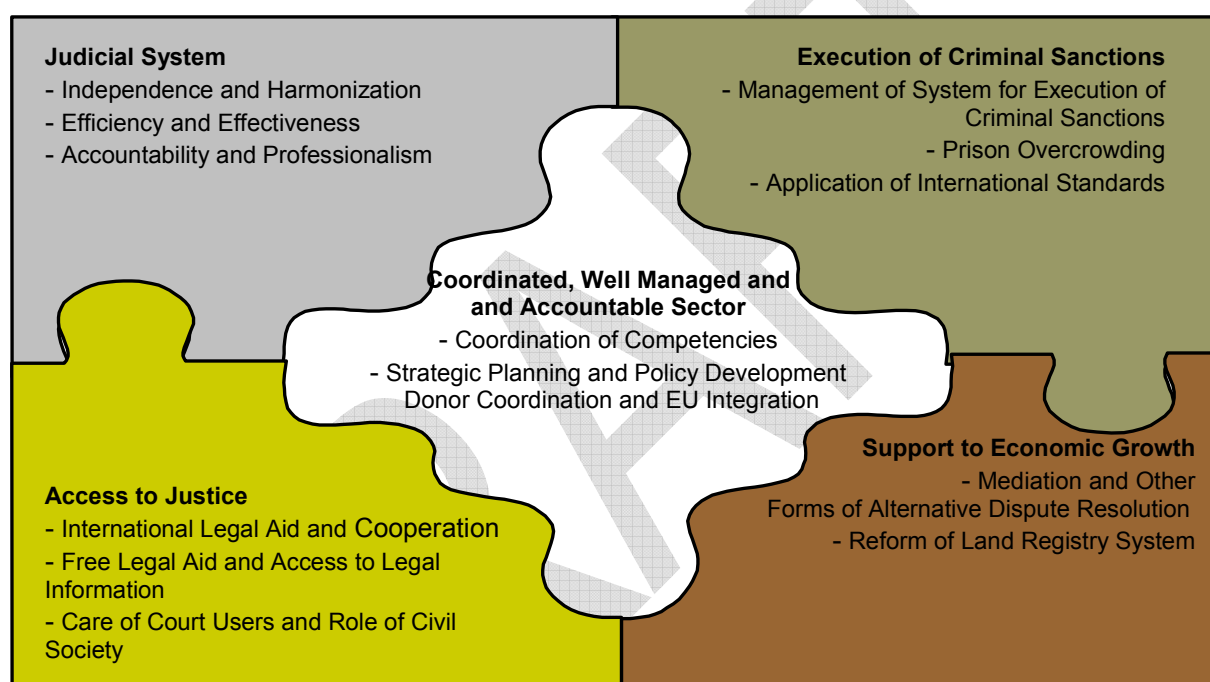
Coordinate and make roles and responsibilities of key justice sector institutions more efficient, with the aim of achieving more effective, transparent and accountable justice system in BiH

## SECTION 5: STRATEGIC PROGRAMS AND PROGRAM INDICATORS

In order to achieve the agreed vision for the justice sector in Bosnia and Herzegovina and to make progress towards the accomplishment of the strategic objectives set out in Section 4, a series of strategic programs have been identified for the coming five-year period.

Strategic programs, for the purpose of this Strategy, have been defined as a set of related activities that are directed towards the accomplishment of a strategic objective. The strategic programs - agreed through a consultative process with representatives of key justice sector institutions (as described in Section 1) - are presented in summary form in the figure below. For ease of presentation and for monitoring the implementation of this Strategy, the strategic programs have been grouped into several sub-areas of initiatives, each one corresponding to one of the 5 pillars of reform.

**Figure 7: Strategic programs of the Justice Sector Reform Strategy**



As Figure 7 implies, the strategic programs are interrelated and the implementation of one set of programs has an impact on the implementation of each other set. The timeline for implementation of the five-year period following the adoption of this Strategy is presented in a later portion of this section.

In the remainder of this section, the strategic programs under each strategic pillar are described in more detail. The following information is set out for each sub-area of initiatives (as set out in Figure 7 above):

- A brief overview of achievements to date and current issues;
- A table setting out the relevant strategic programmes, the responsible institution, the timeline for implementation, and the indicators for implementation;
- An overview of expected benefits or outcomes from the agreed initiatives.

Bearing in mind that most of information and data that was used to provide background information to strategic issues and programs that have been agreed during the JSRS development mainly already existed, it was not necessary to engage in extensive primary information and data generation. However, in order to ensure that all such information and data fully suit the JSRS context, some of them required further substantiation, assessment and some updating due to the time that elapsed since their publication. To this effect, the information and data that were collated from amongst a number of existing documents derive from, but are not exclusively limited to, the Functional Review of the Justice Sector in Bosnia and Herzegovina, the reports of the European Commission's Committee for Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT), the website of the European Commission for the Efficiency of Justice (CEPEJ), reports and analyses prepared by OSCE Mission in Bosnia and Herzegovina, USAID, ABA-CEELI, DfID and OHR, as well as annual reports of the HJPC and Registrar's Office of the Court of Bosnia and Herzegovina. Budgetary information presented in Section 6 has been based on the Budget Framework Documents of the State and two entities adopted at the time the JSRS development commenced.

## **PILLAR 1: Judicial System**

***Strategic objective: To further strengthen and maintain independence, accountability, efficiency, professionalism and harmonisation of the judicial system which ensures the rule of law in BiH***

Given the scope and complexity of issues facing the judiciary, for ease of discussions within the Working Group, as well as for ease of presentation in this document the strategic programs agreed for addressing the issues identified for this pillar of justice sector reform has been divided in the following sub-headings:

- Independence and Harmonization;
- Efficiency and Effectiveness; and
- Accountability and Professionalism.

### **Independence and Harmonization**

Judicial independence is a cornerstone of the separation of powers in democratic societies. Key achievements to date in Bosnia and Herzegovina that have contributed towards achieving judicial independence has been the establishment of the HJPC, which has been assigned with the responsibility of naming and dismissing judges and prosecutors in BiH, setting and monitoring performance standards of the judiciary and overseeing judicial administration. Nonetheless, currently two main factors impede upon judicial independence.

1. Judicial budgeting is a key mechanism to ensure judicial independence and the current **system of financing the judiciary** makes it vulnerable to political pressure. In Bosnia and Herzegovina, this process remains fragmented and is often used as a means to unduly influence the work of the judiciary. In particular, the present system of 11 cantonal budgets within the Federation of Bosnia and Herzegovina is inefficient and also calls into question whether sufficient separation of powers is maintained between the cantonal judiciaries and cantonal executive powers. Even though the Law on HJPC (Official Gazette of Bosnia and Herzegovina no. 25/04) provides the HJPC with the authority to provide substantive input into the preparation of judicial budget, the HJPC must play a stronger role in the process and serve as the interface between the executive and the judicial bodies.

Furthermore, in order to strengthen the overall budgetary decision-making process for the judiciary, the capacities of the ministries of justice need to be strengthened, so that they are able effectively to provide strategic guidelines and set priorities for the budget planning, thus ensuring that budgetary spending for the judiciary reflects realistic needs of the judicial institutions, as well as strategic priorities of the sector.

2. Another fundamental guarantee of judicial independence is a merit based appointment process, based on a transparent and fair procedure. Although this system has been established for all judges and prosecutors in Bosnia and Herzegovina, presently, the **appointment of judges of the Constitutional Court of Bosnia and Herzegovina** does not meet these necessary requirements. This is a particularly sensitive issue, taking into consideration the appellate functions that the Constitutional Court of Bosnia and Herzegovina performs.

The present system lacks a mechanism by which laws and regulations are harmonized across four jurisdictions: the level of Bosnia and Herzegovina, Brčko District, Federation of Bosnia and Herzegovina and Republika Srpska. Practitioners have attempted to resolve this problem by forming *ad hoc* workings groups, such as the Criminal Codes Implementation Assessment Team established by the Ministry of Justice of Bosnia and Herzegovina in 2003. However, the a majority of the members of this ad hoc working group, as well as with similar ad hoc groups have found that such mechanisms geared toward harmonization of criminal and civil substantive and process legislation are neither efficient nor sustainable. Establishing effective and sustainable systems and mechanisms for legal harmonization will become increasingly important with the approaching European integration and extensive harmonization process of domestic legislation with the voluminous *Acquis Communitaires*. During the discussion that was held within the working group in relation to the issue of harmonization of legislation, consensus was not reached and two solutions were offered to the Steering Board: a) “Establish a formal institutional mechanism for harmonisation and maintenance of the harmonised substantive and procedural legislation in criminal and civil cases in BiH”, and b) “Establish single substantive and procedural laws in criminal and civil matters”. All members of the Steering Board agreed that the first option is not acceptable, and until the Strategy is finally adopted, consensus needs to be achieved in regards to the second option.

Following the 2003 judicial reforms, it is clear that the present system lacks one fundamental element to establishing the rule of law—a mechanism by which **court practices** and differing legal interpretations can be resolved and **harmonised**. Presently the Court of Bosnia and Herzegovina and both entity Supreme Courts issue verdicts with dramatically different holdings on key legal questions, resulting in divergences in court practice and legal interpretation. This, in turn, undermines the public trust in the lawful delivery of justice and creates a sense of legal uncertainty.

As the Working group for the Judicial System could not reach consensus on how to address the issues of fragmentation in the system of financing for the judiciary and harmonizing court practise, which are critical for the judicial system in Bosnia and Herzegovina, two options for each of these issues were put forward for further consideration. These specific issues and options for resolution are presented in more detail below.

## **Fragmented financing of the judicial system**

The process of annual budget preparation for courts and prosecutor's offices in Bosnia and Herzegovina has changed quite dramatically in recent years since the Independent Judicial Commission (IJC) and later on the HJPC of Bosnia and Herzegovina, began to take an active role in assisting the courts in preparing draft budgets. However, the current system of financing is extremely complex in technical and practical terms requiring the HJPC to interact with 14 different ministries of justice, 14 different ministries of finance, 14 governments and 14 parliaments in Bosnia and Herzegovina in the process of budget adoption. As a result, the current system of financing features significant budgetary inequalities across 14 jurisdictions in Bosnia and Herzegovina. It is impossible, as a result, to develop and implement any long term strategies, policies and priorities for the judiciary in Bosnia and Herzegovina in a coherent manner. It also hampers the efficient and effective allocation and spending of scarce budgetary resources.

As a consequence, the Working Group for the strategic pillar of Judicial System explored two possible options aimed at remedying the aforesaid problem.

### **OPTION No. 1:**

The first option draws upon the Functional Review of the Justice Sector in Bosnia and Herzegovina prepared by the European Commission. This Study acknowledges that the lack of a centralized funding authority causes, inter alia, significant inequalities in the administration of justice in Bosnia and Herzegovina, jeopardizes the independence of judiciary and impedes the effective and efficient maintenance of the rule of law in Bosnia and Herzegovina. As a result, this Study spells out the following recommendation: "Court and Prosecutors' Offices in Bosnia and Herzegovina should be financed at the level of Bosnia and Herzegovina from the budget year 2007." In addition, Option no. 1 reflects the priority set out in the European Partnership for BiH which reads as follows: "Transfer financing of judiciary on the level of Bosnia and Herzegovina", as well as a priority to: "Establish the central body for execution and monitoring of budgets".

The transfer of funding to the level of Bosnia and Herzegovina would mean that there would be a centralized funding authority and accordingly the possibility of a sector-wide coherence in strategic planning, policy development and priority setting for the entire judiciary in Bosnia and Herzegovina. Instead of interacting with 14 ministries of justice, 14 ministries of finance and 14 parliaments in Bosnia and Herzegovina, such a financing system would enable the HJPC to lobby far more effectively with a single counterpart (i.e. the Ministry of Justice of Bosnia and Herzegovina and Parliamentary Assembly of Bosnia and Herzegovina) for the interests of courts and prosecutor's offices, to prioritize their requirements, to ensure equality in terms of funding based on more realistic and well-thought-out figures, to allocate funding efficiently and effectively and to provide financial planning and assistance.

Last but not least, such a financing system would minimize the potential for political influence in the process of budget development and execution and over the court's in general. In this way the budget process will become more transparent, fair and non-discriminatory.



## OPTION No. 2:

Due to the lack of consensus among the Working Group members with regard to the option no. 1, the Working Group also explored the option to transfer the financing of judiciary from 10 Cantons to the Federation of Bosnia and Herzegovina level of authority. This option would mean that judiciary would in future be financed from 4 jurisdictions i.e. the State, the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District budgets. This option would partially remedy the current fragmentation of the financing system of judiciary in Bosnia and Herzegovina by reducing it from 14 to 4 financing sources, but it is clear that it is not the optimal solution

It should be noted that neither of the above 2 options implies the establishment of a “single judiciary” in Bosnia and Herzegovina. The four existing jurisdictions (i.e. Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District) would preserve their respective mandates as four “individual” jurisdictions but would have a single source of financing at the level of Bosnia and Herzegovina.

### Challenges to consolidating financing of judiciary

If and when a decision on consolidating the financing of the judiciary either at the Federation of Bosnia and Herzegovina level or at the level of Bosnia and Herzegovina, the implications for distribution of indirect taxation revenues as well as implications for the budgets of each of the respective levels will need to be considered in detail. Likewise, the existing responsibilities and authorities of ministries of justice of those levels “losing” the financing of the judiciary have to be re-examined and adjusted to the changed circumstances. The relationships between the executive, legislative and judicial branches will also have to be reconsidered and crafted to the newly established arrangements. Implications for other parts of the justice sector and links to other parts of the public sector will also need to be examined.

Thus, before any political decision is made or actions initiated, a comprehensive and extensive analysis of the consolidation of the financing of judiciary and its implications on the existing legislative, institutional, financial and budgetary framework in Bosnia and Herzegovina needs to be conducted and then reviewed by political decision-makers. This analysis should be driven by the ministries of justice and the HJPC in Bosnia and Herzegovina, although donor assistance could be sought for in relation to expertise and financial assistance needed to conduct and complete the analysis.

### Harmonization of court practise

A state governed by the rule of law is characterized by the equality of all citizens before the law. Within that perspective, the uniqueness of interpretation is its natural corollary: if the interpretation of the law is fragmented, this poses a threat to the equality of citizens. The unity of interpretation is a guarantee designed to secure individual interests and the stability of business relations. Harmonized interpretation of the law has a heightened importance in the present context of political, economic and social transformations in Bosnia and Herzegovina and further EU integration since the latter will bring about a large increase in the number of legal texts further affecting unity of interpretation in court rulings. At this moment, Bosnia and Herzegovina does not have a mechanism which ensures the unity of the interpretation of the laws throughout the entire Bosnia and Herzegovina.

Nowhere is this more relevant than in the present dilemma as to which Criminal Code should be applied in war crimes cases. To date proceedings in the entities have been processed mainly applying earlier criminal codes, which allows for a maximum of 20 years or 40 years of imprisonment, while the Court of Bosnia and Herzegovina applies the Criminal Code of Bosnia and Herzegovina, with a maximum of 45 years imprisonment. Naturally, defendants at the Court of Bosnia and Herzegovina contest this situation. While the Constitutional Court of Bosnia and Herzegovina has issued a ruling attempting to resolve this situation, practitioners insist that the decision is not binding at the entity level.

The failure to acknowledge the binding nature of Constitutional Court decision is worrying and only serves to further exacerbate an already difficult situation, both in this specific example and in numerous other instances. Such examples of dramatically inconsistent practices can be found on all issues—from civil cases to pre-trial detention decisions, and calls into question equality before the law and legal certainty. Establishment of common jurisprudence in numerous areas is urgently required, in particular, both practitioners and the people of Bosnia and Herzegovina want to see sentencing practices strengthened and harmonized.

In light of the above, the Working Group for the Judicial System explored two possible options aimed at removing this evident judicial system shortcoming:

OPTION No. 1:

Bosnia and Herzegovina does not have a Supreme Court of Bosnia and Herzegovina and therefore none of the advantages that a Supreme Court provides. A Supreme Court is required to perform the dynamic role of interpreting the law, and to see that the law is equally applied by courts, thus ensuring homogeneity in judicial practice in the entire Bosnia and Herzegovina. As guardian of the law, a Supreme Court contributes towards maintaining legal security and the protection of freedoms and fundamental rights.

Aware of the problem that the lack of a Supreme Court of Bosnia and Herzegovina poses, the Council of Europe Parliamentary Assembly issued a Resolution 1564 (2007) on “Prosecution of offences falling within the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY)”, whereby it called upon the authorities of BiH to, *inter alia*: “ensure the harmonization of case-law, consider setting up a national supreme court, or grant the powers of a supreme court to an existing court so as to secure legal certainty;”.

OPTION No. 2:

In practical terms, instead of a formal Supreme Court, this option would entail establishment of a permanent panel of presidents of highest courts in Bosnia and Herzegovina (i.e. presidents of entity Supreme Courts, president of an Appellate Division of the Court of Bosnia and Herzegovina and president of the Appellate Court of Brcko District). This panel would meet regularly with the aim of exchanging views on rendered court rulings and defining joint standpoints that, although not binding, would provide guidance to courts when deliberating on cases with similar facts and circumstances.

While this option may, from the practical point of view (but more importantly from a political perspective), seem to be sound, it falls well short of the first option. Among other things, it does not represent the development of a reliable “judicial” body that is able to review the lower court decisions and provide in its rulings significant input or instruction to the lower court on how the law should have been applied in a particular case, thereby helping to apply the consistent court practice throughout Bosnia and Herzegovina. Instead, a panel of court presidents, who do not necessarily need to be experts in both civil and criminal matters, would exchange their views and formulate a joint standpoint, but there are risks in such a

process, relating to quality, which may in practice compromise the harmonization of court practice.

Decisions on which of these options shall be adopted, or not, are expected to be made by the Steering Board until the time this Strategy is put forth for approval by the respective governments in Bosnia and Herzegovina.

In light with all that has previously been stated, the following strategic programmes have been agreed as critical to address core weaknesses in the independence and harmonization of the judicial system:

Strategic program	Responsible institution(s)	Time frame for implementation <sup>1</sup>	Indicators of implementation
Develop and implement formal mechanisms for preparing, adopting and executing budget of the judicial institutions in BiH which ensure the independence of judiciary	BiH and entity MoJs, Brcko District JC and HJPC	months 12 – 60	1. A strengthened role of the HJPC, set out in legislation, in preparing, adopting and executing budget in relation to executive and legislative authorities; 2 Improved ability of the managers in courts and Prosecutor's Offices in the process of planning and executing the budget; 3. Improved coordination and consultations between the MoJs and MoFs, as well as of the legislative authorities with HJPC; 4. Individual budgets for all courts and prosecutor's offices
Strengthen capacities of the Justice Ministry and HJPC in preparation and execution of the budget, in line with the competencies as defined in the law	BiH and entity MoJs, Brcko District JC and HJPC	months 36 – 60	1. Financial requests prepared in line with strategic priorities and realistic needs of the judiciary in BiH
Develop a review of the realistic financial needs of the judicial institutions in BiH, taking into consideration priorities in the judiciary	HJPC	months 12 - 36	1. A study prepared and adopted as the basis for future financing of the judiciary in BiH; 2. Methodology for future projections of financial needs of the judiciary agreed
Look into possibility of harmonising the procedure for selection of the BiH Constitutional Court judges with the existing procedures for the selection of judges for the RS and FBiH Constitutional Courts	BiH MoJ and HJPC	months 1-12	1. The HJPC given an equal role by law in the selection of BiH Constitutional Court judges
<b>Establish single substantive and procedural laws in criminal and civil matters*</b>	BiH and entity MoJs, Brcko District JC and HJPC	months 12 - 36	1. Single framework substantive and procedural laws for criminal and civil matters in BiH enacted

<sup>1</sup> Expressed in months from the adoption of the JSRS.

Strategic program	Responsible institution(s)	Time frame for implementation <sup>2</sup>	Indicators of implementation
Option no. 1: Creating a single budget for the judicial institutions in FBiH Option no. 2: Financing budget of the judicial institutions from a single source	BiH and entity MoJs, Brcko District JC and HJPC	months 12 - 60	1. Competencies for financing of judicial institutions changed and defined
Option no. 1: Establish a body for harmonisation of court practice in BiH. Option no. 2: Establish Supreme Court at the state level that would ensure harmonised court practice in BiH.	BiH and entity MoJs, Brcko District JC and HJPC	months 12 - 36	1. Body established by law for harmonisation of the court practice in BiH with clearly defined competencies OR 2. BiH Supreme Court formally established

\* For this program full consensus of the Steering Board was not reached by the date of completing this draft.

#### Expected outcomes of the strategic programs:

- More streamlined system of coordinating judicial financing, and a more effective and coordinated system for preparing realistic budgets of judicial institutions in Bosnia and Herzegovina that are in line with agreed strategic directions of action and which ensures equality in the way in which resources are allocated to judicial institutions throughout Bosnia and Herzegovina;
- Independence of the judiciary further safeguarded, including a more transparent process of appointing judges of the Constitutional Court of Bosnia and Herzegovina leading to more independent and better qualified judges;
- Greater uniformity in the application of the law throughout Bosnia and Herzegovina and establishment of a system of binding precedents for courts in Bosnia and Herzegovina;
- Assistance to Bosnia and Herzegovina to meet its pledges under the European Partnership for Bosnia and Herzegovina.

#### Efficiency and Effectiveness

The present **backlog of cases** in primarily civil cases hinders steps made to enhance the administration of justice. Backlog of cases continues to impact the length of proceedings in newer cases, thereby affecting the overall ability of courts to process cases in a reasonable time. Although the HJPC made concerted efforts to address this issue in 2005 through a working group established to address this problem, little progress has been made to follow-up on the findings and recommendations from this working group. Based on the statistical information compiled by the HJPC for 2006, as of December 31<sup>st</sup> 2006 the total number of backlog cases was a staggering 1.9 million. However, this number alone does not provide a complete picture of court efficiency and effectiveness. The largest portion of the total backlog (around 56%) relates to execution cases for small value claims (mostly for utility services such as electricity or telephone services). Backlogs of violation cases also comprised a significant portion of total backlogs (20%), however the number of violation cases coming into courts is expecting to decrease in the coming years due to changes to violation laws.

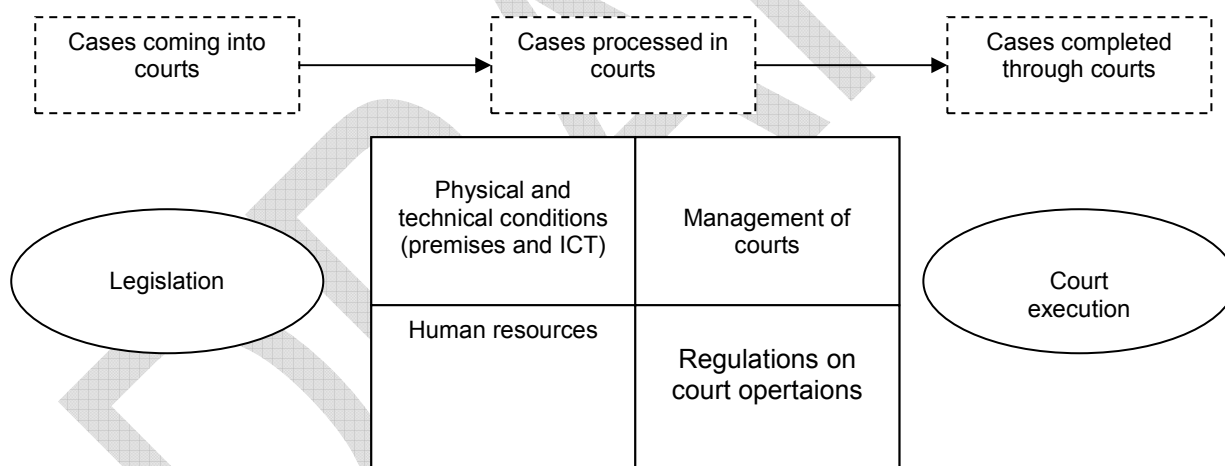
<sup>2</sup> Expressed in months from the adoption of the JSRS.

Although the existence of backlogs for other types of cases is still alarming (with, for instance, 29,000 backlog in criminal and 145,721 backlog in civil cases as of December 31<sup>st</sup> 2006) firstly removing small claims enforcement cases from the system is clearly needed. However, many other steps are also needed, and these should be included in an overall strategy to address the backlog. Without a comprehensive strategy supported by all parts of the justice sector, the massive backlog of cases will continue to hamper the effective functioning of the judiciary.

If the high portion of backlog in execution cases for claims of small value (most commonly for non-payment of utility services) is to be reduced, changes to legislation need to be introduced in order to reduce the influx of these cases in the courts. This was the case with violation cases, where changes were made to violation laws resulting in an expected decrease in violation cases coming into the court system. However, any new legislative solutions should first be assessed and analysed before legislation is adopted. Before any major change is made, an in-depth analysis of options for reducing execution cases for claims of small value needs to be conducted.

The programs proposed for increasing court efficiency and of reducing backlogs recognize the fact that these issues are multifaceted ones, resolution of which depends on initiatives in several different but highly related segments, if a sustainable long-term solution of the problem is to be found. Graphically, the various segments that need to be considered in improving court efficiency and reducing backlogs can be presented as follows:

**Figure 8: Factors effecting court efficiency and effectiveness**



Operations and conditions within the courts greatly affect court efficiency and impede the ability of courts to address the issue of backlogs. As the graph above illustrates there are several dimensions to this:

1. Physical and technical conditions: Courts and prosecutors' offices in Bosnia and Herzegovina rarely meet the standards for guaranteeing efficient and fair trials. For instance, many courts lack courtrooms where proceedings can be conducted, thus affecting the dynamics of hearings. Basic infrastructures is poor in some courts, with, for instance, poor heating systems forcing judges to interrupt court hearings due to unbearable conditions for the parties present. In recognition of the severity of the situation, HJPC (with donor assistance) developed a country-wide assessment of construction needs for all the courts in Bosnia and Herzegovina that would provide for, at least the minimum conditions for effective and efficient court operations. This plan now needs to be reassessed in terms of its funding identifying the volume and sources of funding (credit, donor and domestic) with a particular analysis of how to ensure budgetary funding for continuous financing of running costs and ongoing technical and material

needs. Aside from affecting court efficiency, inadequate facilities also endangers the rights of defendants to open and secure trials.

ICT is another key component in court efficiency and effectiveness. In recognition of this, HJPC has developed an ICT strategy for the judiciary in Bosnia and Herzegovina. This ICT strategy envisions 6 main milestones of implementation: 1) the establishment of the ICT department of the HJPC; 2) the provision of hardware and network infrastructure for courts; 3) ICT training; 4) development and installation of a Case Management Software application; 5) establishing a repository for all court documentation (Centre for court documentation) and 6) the establishment of a judicial portal. With donor assistance, progress has been made in achieving all these milestones (with the exception of the last one which is planned for 2009). Nonetheless, more still needs to be done to fully implement the ICT strategy. However, a key consideration, as with the issue of court premises, is finding appropriate funding. Efforts need to be made to find donor funding as well as assess what measures need to be introduced to secure budgetary funding for the continuous financing of ICT maintenance and training in courts.

2. Management of courts: Another key achievement in judicial reform has been the introduction of the function of court presidents as chief operational managers of the courts. Although it is still premature to make a comprehensive analysis of the effect this role has had on court operations, experience to date has indicated that those courts with stronger leadership and better management have fewer issues with backlogs. This is an indication of the importance of increasing the management capacities and capabilities of court presidents and senior court officials. The capacities of court managers are also important if any future reform initiatives are to be introduced in the judiciary. It is worthwhile investing efforts now towards increasing the managerial skills of court managers so as to reap greater benefits in the future.
3. Human resources: In terms of staffing levels within the courts, it has been assessed that, at this moment, increases in the number of judges and technical-administrative staff would not be feasible nor necessary. Any decisions on increases in numbers should be made after other measures for increasing court efficiency (such as introducing an automated Case Management System, increasing managerial training for court managers and etc). However, there is an issue in regards to the technical-administrative staff in courts. They are underpaid and their capacities have been inadequately developed. Therefore they have not been adequately utilised as a valuable resource in increasing the efficiency and effectiveness of judges in their work. Furthermore, the roles and responsibilities of court staff need to be re-examined so that they can provide more expert support to judges. A comprehensive policy on technical-administrative staff in Bosnia and Herzegovina needs to be developed and, subsequently, reflected into the respective regulations. This policy needs to aim to increase motivation among technical-administrative staff as well as transform them into a key asset for court efficiency and effectiveness.
4. Regulations on court operations: All relevant regulations pertaining to court operations should reflect the changes introduced in court operations geared towards greater efficiency and effectiveness.

It is, therefore, considered that progress in each of these areas will lead towards tangible progress in court efficiency and effectiveness in the following five-year period, and the strategic programs adopted for addressing this issue, as listed below, are aimed towards each of the above-mentioned segments.

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Conduct analysis of the required changes to legislation, with the aim of decreasing the number of backlog cases in the enforcement procedure based on authentic documents and propose appropriate measures	BiH and Entity MoJs, BD JC and HJPC	months 1-12	1. Analysis conducted and corresponding measures identified and implemented so that these claims are in future settled through administrative procedures
Develop and adopt a plan for funding the reconstruction of the courts from domestic, credit and donor resources, based on the architectural and technical plan of the HJPC	BiH, Entity and Cantonal MoJs, BD JC and HJPC	months 12 – 24	1. Plan developed and adopted; 2. Sources of credit and donor funds identified and funds activated; 3. Plan for finding funds for continuous financing of technical and material needs from domestic budgets developed and adopted
Strategic program	Responsible	Time frame for	Indicators of implementation

	<b>institution(s)</b>	<b>implementation</b>	
Implement in full the information and communication strategy of the courts and prosecutors' offices developed by the HJPC	BiH, Entity and Cantonal MoJs, BD JC and HJPC	months 12 - 60	1. Sources of donor funds identified and funds activated; 2. Plan for finding funds for continuous financing of ICT of courts and prosecutor offices from local budgets developed and implemented
Provide continuous training in management for managerial staff in the institutions of the BiH judiciary	HJPC, CEST FBiH, CEST RS and BD JC	months 12 - 60	1. Training programme defined and implemented
Develop policy and pass appropriate regulation, to regulate the administration of the courts and prosecutor's offices	BiH and Entity MoJs, BD JC and HJPC	months 12 - 24	1. All requirements for efficient, effective and accountable work of the court and prosecutors' administration identified; 2. Qualifications structure improved and administrative staff professionally advanced

**Expected outcomes of the strategic programs:**

- Increased efficiency of court work via introducing an automated case tracking system that will enable the sharing of information, the generation of statistics, and the recording of significant trends, as well as through greater uniformity in the way in which courts are administered, and opportunities for sharing best practice.
- Reduction in backlog cases which will increase courts' capacity to deal with non-enforcement cases;
- Increased efficiency and reduction in backlogs will contribute towards an improved public perception of courts.

**Accountability and Professionalism**

Key components of accountability and professionalism of the judiciary include the following:

- Effective performance standards and performance monitoring systems for the judiciary that are in line with EU standards;
- Effective and transparent disciplinary procedures;
- Ensuring entry exams into the judiciary are uniform and aligned with current international trends in the judiciary, as a pre-condition of ensuring high-quality staff entering into the judicial profession; and
- Continuous training and education of judges and prosecutors, as well as technical and administrative staff.



One of the measures supported by the European Commission for the Efficiency of Justice (CEPEJ) geared toward greater court efficiency and better performance is introducing time measurement systems for the judiciary. With the aim of introducing best European practices in performance management of the judiciary in Bosnia and Herzegovina, in August of 2006 the HJPC made a Decision to adopt a time management system for monitoring performance of courts in Bosnia and Herzegovina to replace the current system of orientation norms. It is assessed that the present quota system does not take into account the varied types of cases and their complexity, nor is there any incentive to finalize cases in a more efficient manner. The application of new measures will provide for a more just system of assessing the work of judges, since their performance will not be measured by the number of cases completed, but according to achievement of more precisely defined target timescales needed for processing the legally regulated court actions. It is hoped that, in the long run, this performance management system will also contribute towards decreasing delays in courts. This new system of measuring has initially been introduced in 8 pilot courts. Following this, the system needs to be rolled out to all remaining courts and furthermore developed for the Court of Bosnia and Herzegovina. Likewise, similar measures need to be introduced for prosecutors in Bosnia and Herzegovina.

A further enhancement of the efficiency of the judiciary is seen in the application of CEPEJ recommendations related to the introduction of optimum and foreseeable timeframes for processing cases. Although seemingly similar, the introduction of timeframes that are both optimum and foreseeable is a very extensive reform effort. A gradual approach should be taken, first introducing foreseeable timeframes and only then moving on to introducing optimum ones, reducing target time through business process re-engineering. An analysis needs first to be conducted to identify foreseeable timeframes based on existing practises and trends, supported by recommendations of how implementation would best be introduced in the courts of Bosnia and Herzegovina (whether through piloting or similar).

Disciplinary procedures and responsibilities for disciplinary issues for both judges and prosecutors are key aspects of overall judicial accountability. The Office of the Disciplinary Counsel of the HJPC has authority to hear and decide complaints against judges for disciplinary infraction. Judges may be removed from office or otherwise punished only for specified official misconduct and through a process that is meant to be transparent, governed by criteria that must be objective. However, actual practice is still in the formative stages, and has received mixed reviews. While many judges and legal professionals find that the disciplinary system has injected an appropriate seriousness and discipline into legislative behaviour others have found that the system is subject to abuse by parties or their attorneys dissatisfied with the outcome of the case.

Furthermore, some members of the judiciary in Bosnia and Herzegovina have expressed concern about the accountability of the Office of the Disciplinary Council in how they conduct their official duties. Allegations were voiced that final disciplinary decisions do not always appear impartial. There have also been complaints that in several instances sanctions have been meted out for behaviour that did not deserve this. The overall conclusion is that a body of consistent practice needs to be developed so as to prevent any inappropriate abuses of the system and to ensure the process remains open and fair. Further actions toward enhancing disciplinary procedures towards greater consistency and transparency in practise need to be taken in the medium-term aiming to ensure that disciplinary system is used to enhance the work of judges rather than hinder it.

The system of bar examinations also has challenges that need to be resolved. For one, the criteria and curriculum of examination is not unified thus undermining the credibility of the examination within Bosnia and Herzegovina, as well as among countries in the region and further. Furthermore, the examinations are outdated and do not systematically follow reform initiatives within Bosnia and Herzegovina or changes in international legal practise. Further enhancements of the system of bar examinations, with an emphasis on uniformity and modernization are, therefore, imperative.

Judges must undergo, on a regular basis and without cost to them, professionally prepared continuing legal education courses (at least four days annually), the subject matters of which are generally determined by the judges themselves and which inform them of changes and developments in the law. Judges have, generally, been satisfied with the quality and content of the courses and particularly note the increasing use of practical, interactive teaching approaches and a much-desired move away from purely theoretical and academic training. Both Judicial and Prosecutorial Training Centres (hereinafter the JPTCs) have received positive evaluations for other stakeholders and external reviewers. However, course offerings are still not sufficient to cover the full range of training needs and need to be steadily expanded over the next few years. Training efforts are necessary for continuous professional education, but they need to be relevant and of value to the participants in order to have a positive and sustainable impact. Trainings programs need to offer an appropriate combination of skills based subjects, such as case management and decision writing, as well as subject matter based trainings. Furthermore, training needs to be expanded to court and prosecutorial staff. To keep the positive momentum of reform in judicial continuous education the measures foreseen in the medium-term strategic plans of the JPTCs need to be implemented in accordance to available funding and resources.

Further enhancements in professionalism in the medium- to long-term should be directed towards attracting more young legal professionals to the judiciary and the hiring of apprentices, apprentices - volunteers and expert associates should be promoted among court presidents in line with available resources.

Based on all that has been previously stated, the strategic programs agreed for this subset of issues within the judicial system are as follows:

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Develop and round off the application of time measures in all courts and prosecutor's offices in BiH	HJPC	months 12 - 24	1. Time measures for BiH Court developed and implemented;  2. Time measures for prosecutor's offices in BiH developed and implemented
Begin setting up a system of foreseeable timeframes in processing cases in courts, in line with the recommendations of the Council of Europe (CEPEJ)[	HJPC	months 12 - 24	1. Analysis of possible foreseeable timeframes, based on type of cases and courts, conducted;  2. Timeframes set and implemented in practice

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Improve provisions pertaining to disciplinary responsibility of the judges and prosecutors in the Law on HJPC BiH [	BiH MoJ and HJPC	months 1-12	1. The existing provisions of the Law changed and disciplinary procedure clearly defined and implemented in practice
Reform and improve the system of bar exams in BiH	BiH and Entity MoJs and HJPC	months 1-12	1. Single criteria and programmes for bar exams in BiH established
Establish a legal obligation for hiring apprentices, apprentices - volunteers and expert associates in all courts and prosecutors' offices in BiH, proportionate to the size of the courts and prosecutor's	BiH and Entity MoJs, BD JC and HJPC	months 12 – 24	1. The obligation defined by law with clear criteria for employing apprentices and expert associates
Implement the adopted medium-term strategic plans for training of the judges and prosecutors CEST FBiH, CEST RS and BD JC	HJPC, CEST FBiH, CEST RS and BD JC	months 12 – 60	1. All priority measures from strategic plans implemented

Expected outcomes of the strategic programs:

- More efficient and accountable court system due to increased pressure on judges and prosecutors to meet performance standards
- Greater uniformity in standards for the Bar Examination across Bosnia and Herzegovina, leading to an improvement in the quality of lawyers entering the profession. Likewise, more legal graduates and young legal professionals enter and stay within the system.
- Improved system of continuing professional education for judges and prosecutors in Bosnia and Herzegovina.
- Improved public perception of the judiciary.

## **PILLAR 2: Execution of Criminal Sanctions**

***Strategic objective: To develop a more harmonised system of criminal sanctions in BiH which by respecting European standards ensures humane and legal treatment and effective re-socialisation in prisons in BiH***

The issues concerning the execution of criminal sanctions in Bosnia and Herzegovina that are addressed through this Strategy have been divided into the following sub-sections:

- Management of the system for execution of criminal sanctions;
- Prison overcrowding; and
- Application of international standards.

### **Management of the System for Execution of Criminal Sanctions**

The legislative framework that governs the area of execution of criminal sanctions is highly fragmented. Furthermore, the capacities of ministries of justice effectively and efficiently to manage the prisons are very limited. Numerous events in the past few years point to the dire situation in managing the prison system, most notably the recent escapes of high-profile criminals, as well as repeated instances of riots and inter-inmate violence. The Council of Europe Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (hereinafter: the CPT) in its most recent report on the situation in the prison system of Bosnia and Herzegovina noted, commenting on recent violent disturbances in one of the prisons in Bosnia and Herzegovina, that *“Unfortunately, such incidents are to be expected given the inadequate prison estate, combined with insufficient staffing and a lack of a coherent prison policy and clear prison procedures. Unless concerted action is taken to tackle their underlying causes, they are likely to multiply not diminish.”*

In effect, currently, there is no managerial level between the prisons and the ministers of justice, nor are there operational managers within ministries of justice responsible for individual functional areas, such as security, health care or prisoner treatment programs that could provide guidance and consistency to prisons in their operations. As a result, prison directors often perceive a lack of overall management guidance and support. This further impedes effective and efficient use of scarce resources. It also makes it difficult for ministries of justice effectively to manage the overall execution of criminal sanctions, as they do not have the information that will enable them to analyse prisons and prisoner populations based on the current situation and predicted future trends.

The result of all of this is noticeable variation in the financial, material and staff resources between prisons, not only between levels of government but also between prisons within a single jurisdiction. This variation in resources directly leads to variations in operational delivery, in particular in the way that legal provisions and international standards are implemented. The overall system is thus highly vulnerable to external criticisms, internal dissatisfaction and court litigation.

Measures targeted towards enhancing the overall management of the system for execution of criminal sanctions have been targeted as a key component of this Strategy under the reform pillar of execution of criminal sanctions. The concrete measures agreed for addressing this issue are elaborated below.

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Pass framework Law on criminal sanctions execution in BiH and harmonise all regulations pertaining to criminal sanctions execution	BiH and entity MoJs, Brcko District JC	months 12 - 24	1. Framework legislation passed; 2. Regulations harmonised
Establish prison administrations	BiH and entity MoJs, Brcko District JC	months 24 - 48	1. Directors and at least 2 to 3 assistants appointed;  2. Basic material conditions for the Directorate functioning created;  3. Legal status of the prisons defined as organisational units of the Directorates
Conduct re-categorisation of the prisons and classification within the prisons	BiH and entity MoJs, Brcko District JC	months 12 - 24	1. Re-categorisation of the prisons carried out

It must be noted that, although the members of the Working Group for execution of criminal sanctions are unanimous in the need to establish a prison administration as a way of achieving better operational management over the prisons, the issue of how many prison administrations (one for the entire Bosnia and Herzegovina or several administrations for each of the jurisdictions) was not discussed nor agreed by the Working Group members. Rather it was decided that this decision would need to be made during the drafting of the new framework law on the execution of criminal sanctions.

Expected outcomes of the strategic programs:

- Development of a coherent system for the enforcement of criminal sanctions in Bosnia and Herzegovina that puts it in a better position to meet European and International standards;
- Better strategic and operational management of prison resources and facilities, which in turn ensures the equal application of prison standards pertaining to staff management, development of programs for healthcare and treatment, as well as efficiency and effectiveness;
- Established basis for effective and efficient performance monitoring aimed at enhancing prison standards;
- By segregating policy management from operational management, ministries of justice are in a better position to dedicate resources towards enhancement of the overall system so that it can respond to the registered trends within the criminal justice sector.

## **Prison Overcrowding**

**Overcrowding** in prison facilities is an endemic problem which must be addressed comprehensively. The number of prisoners within the prisons of BiH often exceeds the capacities of the prisons. Only a small number of prisons and detention facilities in Bosnia and Herzegovina can respect the European standard of 4 square meters of space per prisoner and can ensure that certain types of prisoners are segregated from others. Overcrowding can cause severe difficulties within a prison system. It raises the risk that inmates are being held in inhumane conditions. Due to overcrowding, the categorisation of prisoners can not be respected, leading to situations where persons convicted of serious crimes remain in semi-open facilities, among other things. Additionally, the categorisation of pre-trial detainees is also not respected such that pre-trial detainees are not appropriately separated. Working conditions for staff become unacceptable and extremely difficult. It further raises risks of security, disorder, rioting and ultimately serious damage to people and property.

By comparing actual numbers of prisoners with the capacities of each prison according to the European standard of 4 square meters, it is evident that overcrowding is a problem in at least half of all prisons in Bosnia and Herzegovina. Several of the others are nearing their accommodation limits. If no action is taken in the medium- to long-term most, if not all, prisons in Bosnia and Herzegovina will find themselves in an increasingly difficult position. For the following five-year period initiatives in the following areas need to be pursued to alleviate existing pressures on prison accommodation:

- Conditional release: Currently this is used to a very limited extent and to varying degrees at different levels of government. Laws on the execution of criminal sanctions are not harmonized and, as a result, the commissions that decide on conditional release requests differ in their composition between levels of government. Many rely too heavily on judicial representatives with less influence from correctional officials or pedagogues. The lack of a probation system in Bosnia and Herzegovina adds a further dimension to the problem of prison overcrowding. This is something that needs to be developed in the long-term including developing capacities within prisons to more adequately prepare convicted persons for release.
- Alternative (non-custodial) sanctions: The non-custodial sanctions currently prescribed by the criminal laws, in particular community service, are not used at all or are used to such a limited extent that they have almost no impact on overall prisoner numbers. Community service should be piloted to assess results in practise before enacting bylaws for implementing community service. A pilot should indicate to what extent and in what ways capacities in the ministries of justice need to be developed in order to implement and supervise community service. Financial implications of these measures need to be assessed and taken into consideration. Once solid practice in community service has been developed, it will be feasible to look into the possibilities and benefits of introducing other types of alternative sanctions. However, although these measures will lessen pressures on prison accommodation they must always be developed as part of a range of sentencing options that aim to lessen the isolation of convicted persons from society.
- Prison accommodation: Assessments of prisoner numbers, trends and current facilities indicate that there is a realistic need to reconstruct existing facilities or build new prison facilities. These initiatives have to be carefully assessed and planned in order to reflect the availability of existing and forecasted resources but also taking into consideration the sector as a whole in order to achieve the highest cost-benefits.

In line with the above, the programs identified to contribute towards the issue of prison overcrowding in the following five-year period are given in the table below.

Strategic program	Responsible institution(s)	Time frame for implementation <sup>3</sup>	Indicators of implementation
Develop conditional release system	BiH and entity MoJs, Brcko District JC	months 12 - 36	1. Increased percentage of persons on conditional release (in line with the requirements outline by the law) in comparison with 2007.  2. Criteria for Commissions work defined and harmonised;  3. Analysis conducted and proposals developed for probation system
Achieve recognition for execution of alternative sentences and implement the "community service" institute	BiH and entity MoJs, Brcko District JC	months 12 - 60	1. Pilot community service and recommend general solutions;  2. Adopt and implement implementing regulations;  3. Prepare studies on introduction of other types of alternative sentences
Improve conditions by reconstructing existing prisons, abandoned military facilities and construction of the state prison	BiH and entity MoJs, Brcko District JC	months 12 - 60	1. A coherent plan of reconstruction of the existing facilities and construction of the state prison developed;  2. Increased accommodation capacity in comparison with 2007.

Expected outcomes of the strategic programs:

- Reduced overcrowding and pressure on prisons, resulting in greater respect of human rights;
- Prisons better able to meet European standards as well as more effectively sustain order and security within the prisons;
- Better segregation of prisoners and limited contact between prisoners of different categories;
- Increases possibilities for effective treatment of prisoners, including rehabilitative work, as a result of fewer pressures on limited space;
- Increases scope for reintegration of offenders into society, through maintaining greater ties with the community rather than severing it by incarceration. Incarceration would only be used for more serious offenders and those offenders that pose the greatest threats to society.

<sup>3</sup> Expressed in months from the adoption of the JSRS.

## **Application of International Standards**

In regard to the application of international standards, the prison system in Bosnia and Herzegovina, is facing a series of challenges, particularly in relation to prisoner health care, treatment/rehabilitation programs aligned with prisoner needs and profiles, continuous professional education and training of prison managers and staff, and independent prison inspection.

At present the development and implementation of programmes providing meaningful activities for specific groups of prisoners requiring tailored programmes (such as women, juveniles, long-term prisoners, substance abusers or highly problematic prisoners) is near impossible, given the *de facto* absence of appropriate facility for some of these groups, most notably juveniles, women, substance abusers, as well as a lack of sufficient facilities for mentally incapacitated defendants.. The CPT and the Council of Europe have stressed the needs for the “development of programmes tailored to the profile of different types of prisoners” for the prisons in Bosnia and Herzegovina. Currently, the design of new treatment programmes largely depends on the initiatives of individual prisons. There is no capacity in the ministries of justice for designing larger scale joined up programmes. However any plans for changing the treatment regimes must be made with full consideration of budgetary funding availability for implementation.

Recent CPT reports and reports coming from the individual prisons indicate significant health risks within the prisons due to the inadequate healthcare. Previous analyses of the health care system conducted by the Council of Europe have indicated that while, generally, prisons were organized on humane principles and had access to health care services, there were a number of serious shortcomings. In particular, there was an absence of leadership for healthcare in the prison sector; there was no formal involvement of ministries of health and no guidelines to health care staff and little monitoring. Facilities and equipment also require investment to achieve minimum standards. All this warrants the development of comprehensive plans, with participation of the ministries of health, to improve prison healthcare and eliminate potential risks to public health in the most efficient and cost-effective ways feasible.

Systems of independent monitoring and oversight over the prisons in Bosnia and Herzegovina need to be established, to assure legislative bodies and the wider public that prisoners are being treated in line with international conventions and with full respect of their human rights. Presently only the CPT and on an irregular basis the Ombudsman of Bosnia and Herzegovina provides an occasional outside assessment of the prison system, while international standards require governments to adopt and enforce a regular mechanism for monitoring prisons to safeguard against torture, cruel inhuman or degrading treatment. This requires appropriate legislative changes and staffing inspectorate functions appropriately.

Finally, another critical issue that needs to be addressed in the medium- to long-term is continued professional education for prison staff and prison managers. The greatest limiting factor is budgetary funding, once current donor assistance in this area ceases. Comprehensive plans for establishing a function of continued education need to be developed with a particular emphasis on how continued professional education can be implemented within available resources.

It is imperative is that these issues be addressed by each level of government, but they must be addressed in a coordinated and harmonious fashion so as to ensure the equal application of international standards and the respect of human rights throughout the prison system in Bosnia and Herzegovina.



Coordinated action will enable better use of limited resources to accomplish the programs set out below. With that in mind, the following programs have been agreed as ways of addressing challenges in these areas:

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Advance the system of treatment for specific categories of prison population (minors, women and persons under obligatory treatment)	BiH and entity MoJs, Brcko District JC	months 12 - 36	1. A joint plan for treatment of specific prisoners categories adopted and implemented; 2. Additional accommodation for these categories provided
Advance the system of health protection for the entire prison population	BiH and entity MoJs, Brcko District JC	months 12 - 36	1. A joint health protection plan, agreed with the Health Ministers, adopted and implemented
Establish a system of independent prison inspection in BiH	BiH and entity MoJs, Brcko District JC	months 12 - 36	1. Laws and by-laws passed; 2. Chief Prison Inspector appointed, with provision of minimal conditions for work
Develop and implement coherent system of education and training for prison staff in BiH	BiH and entity MoJs, Brcko District JC	months 12 - 60	1. A coherent and harmonised programme of education and training passed; 2. Method and mechanisms for implementation of continuous training identified

Expected outcomes of the strategic programs:

- Improved chances of rehabilitation amongst specific categories of prison population and reduction of risk to specific categories in prisons;
- Improved health care system within prisons and make it effective, efficient and sustainable aimed towards reducing the risks of serious epidemics/other health related problems inside and outside prison establishments;
- Objective and authoritative assessment of prison conditions which can support compliance with European and International standards and drive future reform;
- Development of higher and more uniform standards across the prison service;
- Improved the professional skills and of prison staff;
- Bosnia and Herzegovina is placed in a better position to meet relevant European and International standards in each of the respective areas.

### **PILLAR 3: Access to Justice**

***Strategic objective: Advance the system of international legal assistance and establish, strengthen and maintain systems and processes that guarantee equal access to justice in BiH***

For this five-year Justice Reform Strategy the programs under the reform pillar of access to justice will address the following segments:

- International legal aid and cooperation;
- Free legal aid and access to legal information; and
- Care of court users and the role of civil society.

#### **International Legal Aid and Cooperation**

**International legal assistance** is a vital component in the resolution of the large number of outstanding war crimes prosecutions in the region. Under the Constitution of Bosnia and Herzegovina, international legal aid and cooperation is the responsibility of the institutions of Bosnia and Herzegovina. The justice sector must be in a position to enable Bosnia and Herzegovina to comply with its international obligations and, in particular, in the first instance with the Council of Europe Conventions. Furthermore, the ministries of justice, and particularly the Ministry of Justice of Bosnia and Herzegovina, need to co-operate and communicate in their fields of interest with foreign ministries of justice in order to ensure the rule of law generally and in a European context. This is especially important in relation to assisting in the fight against organised and international crime. Bosnia and Herzegovina is required to deal with many more requests for mutual legal assistance than most EU countries because of its particular history and situation. This is likely to continue for the foreseeable future.

The Council of Europe Parliamentary Assembly recently adopted a key resolution on prosecution of offences falling within the jurisdiction of the International Criminal Tribunal for the Former Yugoslavia (ICTY). This identifies many obligations for Bosnia and Herzegovina in the field of international cooperation.<sup>4</sup> Meeting these obligations poses a serious challenge to authorities in Bosnia and Herzegovina in the process of further EU integration, since the quality of international assistance and cooperation is the parameter which is closely monitored and weighted.

In the last few years the Ministry of Justice of Bosnia and Herzegovina has made significant efforts in order to increase its capacity to carry out this important function and to establish a system whereby tasks are carried out in a systematic manner and staff has adequate specialisation which equips them to deal with particular areas. At this moment, a key challenge is to ensure the consistency and equal application of relevant conventions and laws by the courts in Bosnia and Herzegovina. An evident lack of specialised training for the judges and the lack of harmonised court practices in this subject matter mean that there can be unpredictable implementation. This unpredictability affects the way that Bosnia and Herzegovina is regarded in the international legal arena, not to mention the fact that Bosnia and Herzegovina runs the risk of serious breach of conventions. Furthermore, systematic international legal cooperation needs further to be enhanced by a comprehensive data base of citizens of Bosnia and Herzegovina who have committed crimes abroad, which at the moment is not available.

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<sup>4</sup> Resolution 1564 (2007) available at:  
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/ERES1564.htm>

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Establish mechanisms that ensure targeted professional development programme in international legal aid and cooperation for judges and prosecutors in BiH, as well as for civil servants in the bodies that have a role in providing international legal aid and cooperation	BiH and entity MoJs, Brcko District JC, HJPC and CEST FBiH and RS	months 12 - 60	1. Harmonised programmes of targeted professional advancement for judges and prosecutors in BiH adopted, for international legal aid and cooperation, and implemented continuously and consistently. 2. Additionally strengthened capacities in BiH MoJ and staff who work on international legal aid and cooperation trained.
Ensure harmonisation of court practice in BiH related to international legal aid and cooperation	BiH Court, FBiH and RS Supreme Courts, BD Appeals Court, BiH and entity MoJ and BD JC	months 12 - 60	1. Full implementation of Article 13 of the Law on BiH Court, in particular those aspects that refer to the Court competence for harmonisation of the court practice in BiH, in the field of international legal aid and cooperation, as well as implementation of other regulations regulating this area
Define precisely the extradition and transfer procedures for convicted persons and set up financing procedures for these through budgets of the appropriate ministries and BD JC	BiH and entity MoJ and BD JC	months 24 - 36	1. Model of financing for the procedures of extradition and transfer of convicted persons defined by legislation, through changes to entity Criminal Procedure Code and passing of the Law on international legal aid in BiH; 2. Harmonising the entity and BiH Criminal Procedure Code, law on asylum and law on citizenship.
Pass a new law on international legal aid and cooperation in criminal matters in BiH	BiH MoJ	months 1 - 12	1. New law on international legal aid and cooperation in criminal matters in BiH adopted and implemented consistently
Establish a registry of convictions for BiH citizens convicted abroad	BiH MoJ	months 1 - 12	1. Legal framework established; 2. Single register of BiH citizens convicted abroad is established and maintained

#### Expected outcomes of the strategic programs:

- Capacity of the judiciary in Bosnia and Herzegovina to deal with this subject matter further strengthened and increased awareness of ILA obligations leading to better cooperation on civil and criminal matters.
- Strengthened quality of implemented European and other international obligations, especially, Council of Europe Conventions and facilitate better cooperation with other states.
- Consistent and equal application of the law regulating international legal aid and cooperation throughout the courts of Bosnia and Herzegovina and provide for clearer and more streamlined functions and responsibilities among all actors in the justice chain.

## **Free Legal Aid and Access to Legal Information**

The right to legal aid is one of the fundamental principles underpinning the provision of access to justice for all citizens. Legal aid provision means that criminal liability cannot be determined without the participation on both sides by professional advocates. It therefore constitutes a legal guarantee for defendants or accused to protect their rights and interests in the criminal procedure. The implementation of this right is essential for full enjoyment of granted rights. Free legal aid is also crucial for the fulfilment of key European and International Conventions, in particularly the European Convention on Human Rights.

Despite ongoing reforms in range of areas of the rule of law, the establishment of a viable and comprehensive legal aid system in Bosnia and Herzegovina still remains a challenge and an unfulfilled goal. Given the dire financial straits of most courts in the country, many court appointed lawyers are paid months in arrears (if at all) for their services. Furthermore, the exorbitant costs of *ex officio* defence attorneys, according to attorney tariffs established by Bar Associations, appear to create reluctance to even properly inform defendants of these rights, as well as reluctance to appoint *ex officio* counsel when needed. The result is a system with poorly motivated attorneys and ill-served indigent clients. This results in ineffective system of indigent criminal defence.

At the moment there are some jurisdictions in Bosnia and Herzegovina which have locally regulated provision of free legal aid, but models differ from one to another. Legal aid is provided by a) private lawyers appointed on a case-by-case basis by judicial authorities, b) lawyers employed directly by a legal aid commission or other governing body, or c) by an independent legal services organization (i.e., a public defender's office) such as in Brcko District and Zenica Canton. These mechanisms are very different. As such they present an obvious challenge, if Bosnia and Herzegovina is to develop a legal framework which will provide for a comprehensive, workable and sustainable system of free legal aid, detailed enough to provide for minimum equality before the law for all citizens of Bosnia and Herzegovina, but still remain flexible and inclusive in order to accommodate various local requirements and preferences.

Probably the greatest challenge is to develop a system of legal aid that improves the quality and expands the availability of legal representation while remaining sustainable within the budget constraints for the justice sector in Bosnia and Herzegovina. For this purpose, a continuous monitoring and evaluation of existing models is an important exercise for analytical comparison and possible selection of the most effective model of legal aid provision that could take into consideration not only practise and experiences in Bosnia and Herzegovina, but also international best practise as well.

The strategic programs agreed for this segment of access to justice are as follows:

<b>Strategic program</b>	<b>Responsible institution(s)</b>	<b>Time frame for implementation</b>	<b>Indicators of implementation</b>
Create legal and institutional framework for the establishment of the free legal aid system in BiH	BiH and entity MoJ and BD	months 12 - 24	1. Entity and cantonal laws passed on free legal aid in civic cases 2. A framework law on free legal aid in criminal cases in BiH and entity laws

in criminal and civil matters	JC		passed; 3. Institutional bodies for provision of free legal aid in civic and criminal cases established and providing services
Define legal and institutional framework for continuous implementation of the training programme for free legal aid providers	BiH and entity MoJ and BD JC	months 12 - 60	1. Education programmes defined and being implemented
Analyse the established free legal aid system in criminal and civil cases, focusing on effectiveness and efficiency of the free legal aid system	BiH and entity MoJ and BD JC	month 60	1. Analysis conducted and activities related to implementation of the analysis findings started

#### Expected outcomes of the strategic programs:

- Compliance of Bosnia and Herzegovina with key European and International Conventions, most notably compliance with the European Convention on Human Rights;
- A common legal framework and provide for minimum standards guaranteeing equality for all before the law;
- Streamlined system of legal aid in so that there are set and clear standards for those receiving free legal aid and similar standards for those providing free legal aid in the entire Bosnia and Herzegovina;
- Enhanced effectiveness and sustainability through the provision of training programmes and the impact assessment studies of various models of free legal aid.

#### Care of Court Users and the Role of Civil Society

The recently adopted Care of Court Users Strategy has an important role in improving the rights and freedoms of all citizens of Bosnia and Herzegovina ensuring equal access to justice, improving standards of public administration and equipping our country for European Union Accession. The strategy aims to assist courts in Bosnia and Herzegovina to meet the needs of ordinary citizens and, in doing so, build respect for the court and promote public trust and confidence in our judicial system. This Strategy for Care of Court Users sits directly within the ongoing reform of the judicial system in Bosnia and Herzegovina.

The Strategy addresses key weaknesses in the existing judicial system and is intended to assist the HJPC and the respective ministries of justice in Bosnia and Herzegovina (Ministry of Justice of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska, and Cantonal Ministries of Justice) to improve the delivery of justice in Bosnia and Herzegovina. The strategy builds directly upon international best practice and lessons learnt from previous care of court user pilot projects implemented throughout Bosnia and Herzegovina. As a result, this strategy is informed by international best practice and is firmly based upon successful Bosnian-Herzegovinian approaches and methods.

The level of information that is shared with general public affects the level of trust and confidence of general public towards public institutions. Experience in many jurisdictions has shown that citizens have more respect for processes and decisions when they understand them. Complex procedures that are poorly explained can also discourage people from pursuing legitimate claims.

The court needs to become an institution that is better understood by citizens, both in its overall purpose and, when relevant to individual citizens, in its more detailed workings. Such transparency provides the court with opportunities to identify and meet the needs of citizens thus building respect for the court and increasing public trust and confidence. Ensuring unimpeded access to justice and ensuring that services provided through the courts meet the needs of ordinary citizens builds respect for the court and promotes public trust and confidence. The best way to encourage compliance with the law is for authorities to implement programs that foster a sense of personal involvement and responsibility. For example, courts need to be more open and transparent if they are to become respected institutions, and communicating with, and keeping users informed – as well as treating users with dignity and respect – has a key role to play.

Active participation of the non-governmental sector has to be increased. At the moment, in all sectors there is a lack of active participation of the NGOs and primary activism of international organization and political parties. Input from diverse interest groups can assist justice sector as whole in the resolution of present and potential conflicts in society, and improved access to justice. It is of great importance to find a systematic model for a more active engagement of the NGO sector in Bosnia and Herzegovina through their greater involvement at all key stages of development of justice policies.

Strategic program	Responsible institution(s)	Time frame for implementation <sup>5</sup>	Indicators of implementation
Ensure full implementation of the Care of Court Users Strategy in BiH	HJPC, BiH, entity and cantonal MoJs and BD JC	months 12 – 60	1. Action plan for Strategy implementation developed, adopted and implemented
Increase the level of information accessible on organisation and work of the courts and prosecutor's offices in BiH to the wider BiH public	HJPC, BiH, entity and cantonal MoJs and BD JC	months 12 – 60	1. Continuous increases in information accessibility
Explore modalities for a more active engagement of the NGO sector in BiH in monitoring the justice sector work in BiH	HJPC, BiH and entity MoJs and BD JC	months 12 – 36	1. A study on modalities of more active engagement of the NGO sector in BiH on monitoring the work of the justice sector developed, with recommendations about the same issue.

<sup>5</sup> Expressed in months from the adoption of the JSRS.

#### Expected outcomes of the strategic programs:

- Implementation of selected programs should increase fair and equitable access to justice and ensure that services provided through the courts meet the needs of ordinary citizens.
- Increased focus on the needs of citizens; building the commitment of court actors to improve their focus on the citizen and deliver results that matter to them.
- This ultimately leads towards greater trust and confidence in courts of Bosnia and Herzegovina, both for current court users, and for the citizens who may be court users in the future.

#### **PILLAR 4: Support to Economic Growth**

***Strategic objective: Define and implement measures through which the justice sector will contribute to creation of a more favourable environment for sustainable economic development in BiH***

In the coming five-year period the support of the justice sector to economic growth will be channelled through two distinct areas further elaborated below:

- Mediation and other forms of alternative dispute resolution; and
- Reform of the land registry system.

#### **Mediation and Other Forms of Alternative Dispute Resolution**

Time-consuming and expensive court proceedings are creating enormous damage to small and medium enterprises in Bosnia and Herzegovina (SMEs), hindering commercial litigations, causing mounting costs and blocking sizable assets in business. In recent years, there have been some initiatives aiming to overcome this situation and to help SMEs to cut through judicial red tape and unlock these assets. These resulted in the introduction of some alternative dispute resolution (ADR) mechanisms, notably mediation, in the Bosnia and Herzegovina legal system<sup>6</sup>.

Donor-funded pilot initiatives were launched to test the practical application and challenges of commercial mediation in legal practise in Bosnia and Herzegovina. The pilot initiatives in the Basic Court of Banja Luka and Municipal Court of Sarajevo resulted in the resolution of 340 commercial disputes through mediation, releasing assets to the amount of approximately KM 18 million. This has proved that mediation is a useful tool to remove barriers to doing business in Bosnia and Herzegovina. It provides a number of advantages over the rigid and exclusively “court-centred” litigations. For example, it may assist the judiciary in Bosnia and Herzegovina, freeing up scarce judicial resources by reducing the number of hearings, trials and eventually help to reduce the considerable case backlogs accumulated in many courts throughout Bosnia and Herzegovina. It might also help reduce excessive dispute resolution costs, as mediation has proved to be less expensive than court lawsuits.

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<sup>6</sup> see the Law on Mediation Procedure (“Official Gazette of BiH” no. 37/04), which governs the mediation procedure on the territory of BiH as a whole, and the Law on Transfer of Mediation Activities to Association of Mediators (“Official Gazette of BiH” no. 52/05), which regulates, *inter alia*, the transfer of mediation to the Association of Mediators in BiH;

Furthermore, mediation can improve access to justice in a variety of ways such as to help poorer segments of society to participate in dispute resolution where they might not have been able to afford an attorney for court litigation. To this effect, an EU Directive promoting mediation in civil and commercial matters identifies its primary objective as “*ensuring better access to justice*”<sup>7</sup>. What is more, mediation procedure is confidential, so that parties' statements presented in mediation can not be used as evidence in any other procedure unless otherwise expressly decided by the parties.

Finally, as shown by numerous studies, mediation can often allow parties to resolve their disputes while maintaining their business relationship. This is an important aspect in the business environment in Bosnia and Herzegovina, which places a high premium on personal relationships in business. All the above suggests, that, although mediation is not a magic bullet for all judicial problems of Bosnia and Herzegovina, it does have the potential dramatically to improve matters in the commercial area over the long term, if implemented properly. Consequently, a number of strategic programs listed below are designed to assist that mediation becomes fully integrated into the legal landscape of Bosnia and Herzegovina.

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Ensure strategic guidelines for development of the ADR	BiH MoJ	months 12 - 60	1. Conduct an analysis of to date experiences in the mediation application; 2. Action plan for promotion of ADR in BiH passed and implemented, including activities related to supporting the BiH Association of Mediators in promoting mediation
Promote benefits of the alternative dispute resolution at the level of BiH executive authorities	BiH MoJ	months 12 - 60	1. Raised awareness and trust in ADR at the level of executive authorities in BiH
Continue promoting alternative dispute resolution among the businesses, legal representatives and the academic community	BiH Association of Mediators, Bar Associations	months 12 - 60	1. Amendments to code of ethics of the bar association in FBiH and RS adopted, in terms of the obligation to inform the parties on the possibility of dispute resolution through mediation; 2. Programme of education on ADR developed and implemented at the relevant faculties in BiH; 3. Increased number of information sharing meetings with businessmen and other service users, with the aim of promoting ADR in BiH
Define clear mechanisms and activities of promoting and encouraging the use of mediation among the judges in BiH	HJPC	months 12 – 24	1. Plan of long-term promotion and encouragement of the use of mediation among the judges in BiH developed
Strengthen the role of the BiH MoJ in defining policies for the alternative dispute resolution and in the establishment of the system of evaluation and monitoring of	BiH MoJ	months 12 – 36	1. BiH MoJ made stronger in terms of staff for defining policies related to ADR; 2. A system of evaluation and monitoring the application and effectiveness defined and

<sup>7</sup> see Commission Proposal for a Directive of the European Parliament and of the Council on Certain Aspects of Mediation in Civil and Commercial Matters, COM(2004)718 final – 2004/0251 (COD), available at [http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004\\_0718en01.pdf](http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0718en01.pdf);



the implementation and effectiveness of the mediation			established
Advance capacities of the Association of Mediators in BiH with regards to development of human resources, standardisation system, training, licensing and service provision	BiH MoJ, BiH Association of Mediators	months 12 – 60	1. Secretariat for administrative and technical support for the BiH Association of Mediators established and operational; 2. BiH Association of Mediators awarded the EN 45103 standard for licensing of the mediators; 3. Training programme for mediators in BiH advanced
<b>Strategic program</b>	<b>Responsible institution(s)</b>	<b>Time frame for implementation</b>	<b>Indicators of implementation</b>
Continuously conduct training on successful referral of cases for mediation, as part of the professional development of the judges and initial training	HJPC, BiH and entity MoJs, BD JC and CEST FBiH and RS	months 12 – 60	1. Training programme defined and implemented; 2. The number of trained judges and expert associates, lawyers and others increased in comparison with the previous period; 3. Repository of knowledge established (data base, materials, etc.) on trained persons
Ensure a system of mediation services provision throughout BiH	BiH and entity MoJs, BD JC, BiH Association of Mediators	months 12 – 60	1. Optimal number of offices for mediation in BiH established in full capacity, with defined network of reporting, storing and exchange of information and data
Conduct a study on modalities of the wider application of mediation and other types of alternative dispute resolution in BiH	BiH MoJ	months 48 – 60	1. Study with recommendations completed

#### Expected outcomes of the strategic programs:

- Strengthened role of Ministry of Justice of Bosnia and Herzegovina in developing policy on mediation and potentially other forms of ADR in line with results in legal practise in Bosnia and Herzegovina, as well as international experience, and facilitate the development of a BiH-wide strategic approach to developing mediation and other forms of ADR to other types of disputes aside from commercial ones.
- Increased awareness of key institutions of the benefits of mediation and ADR.
- Reduction of pressure on courts and ease conflict and tensions between disputing parties.
- Clear mechanisms making referrals from courts to mediation easier;
- Improved quality of mediation services in Bosnia and Herzegovina.

## **Reform of Land Registry System**

To date, Bosnia and Herzegovina does not have a modern, digitized system of managing land register and cadastre data. Unfortunately, available registers are mostly still in paper form or even sometimes non-existent. The transfer of existing records to digital form is currently ongoing within the courts, and it is expected that this digitization will be completed in a couple of years. However this task will require huge financial, human and physical resources for implementation. Once completed the land registry reform programme should establish a basis for reliable and secure property rights, and for the development of land administration services, which are prerequisites for more certain and predictable business environment.

There are several challenges to be tackled in order to build the necessary foundation for reform in this area. The legislative framework in Bosnia and Herzegovina still lacks some key regulations which are the prerequisite for overall Land Administration Reform. More precisely, there is a lack of substantive laws related to property needed in a modern market economy; in particular, new laws on property rights, on denationalization and on State property.

The quality of land administration services is directly linked with the quality of the service providers. Up-to-date technical knowledge, managerial capacity and a client-oriented approach are all necessary. Hence, continuous professional training is essential to reach an optimal level of qualification. This continuous training started some years ago in particular focused on jurists and land registry clerks, but must be strengthened in the near future among the cadastre and IT specialists.

Working conditions in land registration are generally poor, often totally inadequate. Most of the premises allocated to land registry courts and cadastre offices do not offer any public reception facilities, have inadequate working spaces and are not well maintained. Office furniture and equipment are outdated, and the technical infrastructure is insufficient.

The following strategic programmes aim to address all of these issues.

<b>Strategic program</b>	<b>Responsible institution(s)</b>	<b>Time frame for implementation</b>	<b>Indicators of implementation</b>
Finalise legislative framework needed for optimal functioning of the land registry system	BiH and entity MoJs, BD JC	months 12 – 36	1. Property Law and Law on division of state property adopted, and the law on court fees amended with the aim of harmonising court fees for land registry procedures throughout BiH
Ensure unified standards of quality in terms of providing services in the land registry offices	Entity MoJs and BD JC	months 12 – 24	1. All rulebooks recommended in Strategic Guidelines for Land Registry Administration in BiH
Develop criteria and regulations regulating the number and status of the land registry employees	Entity MoJs, BD JC and HJPC	Months 1- 12	1. Criteria and regulations developed and implemented
Strengthen capacities of the entity MoJs for the land registry system needs	Entity MoJs and BD JC	months 12 – 60	1. Set up and make operational special departments for land registry business in entity MoJs; 2. Develop and implement training

			programme in development, monitoring and evaluation of policies in this area for the entity MoJs staff
Strengthen capacities of the land registry offices in terms of the land registry administration needs	Entity MoJs, BD JC and HJPC	months 12 – 60	1. Develop and implement a program of continuous professional advancement for staff in land registry offices;  2. Modernise work processes and management systems in the land registry administration
<b>Strategic program</b>	<b>Responsible institution(s)</b>	<b>Time frame for implementation</b>	<b>Indicators of implementation</b>
Ensure mechanisms for harmonised legislation in the land registry sector in BiH	Entity MoJs, BD JC and SKOZ BiH	months 12 – 60	1. Full harmonisation of all regulations in land registry sector in the entire BiH
Contribute to better coordination with institutions in the land registry administration sector	Entity MoJs, BD JC and SKOZ BiH	months 12 – 60	1. Full and continuous cooperation with SKOZ (what is this acronym) BH established

Expected outcomes of the strategic programs:

- Clear legislative framework, facilitating more efficient and transparent work and better customer service, at the same time ensuring that customer service standards are clear in land registries throughout Bosnia and Herzegovina, resulting in increased trust.
- Greater efficiency in the land registration sector, as each institution performs its role in coordination with the others.
- The development of a coherent system for land registration in Bosnia and Herzegovina, leading to legal certainty about property rights and creating a better climate for investment.

## **PILLAR 5: Well-managed and Coordinated Sector**

**Strategic objective: Coordinate and make roles and responsibilities of key justice sector institutions more efficient, with the aim of achieving more effective, transparent and accountable justice system in BiH**

Achieving a more coordinated and better managed sector require a series of initiatives each equally challenging as the other, particularly within the context of the complex constitutional and institutional framework in Bosnia and Herzegovina.

For the purpose of this Strategy, efforts will be directed towards the following areas:

- Coordination of competencies;
- Strategic planning and policy development; and
- Donor coordination and EU integration.

### **Coordination of Competencies**

Despite the assumptions built into many reform projects in Bosnia and Herzegovina, new laws in and of themselves do not seem to be the optimal solution to overcome the dysfunctional system of vertical coordination in the justice sector. With its complex governmental structure and a multitude of justice sector stakeholders all of whom are burdened by ambiguous inter-institutional mandates and responsibilities, and sometimes rival agendas and opposing interests, the justice sector in Bosnia and Herzegovina still faces a myriad of problems. The multiplicity of key stakeholders on the same policy field generates duplication and coordination problems that must be urgently addressed.

Experience of other western European countries with complex governmental structures has shown that proper coordination and consultation mechanisms and capacities are the key prerequisites for a functional and coherent sector. These mechanisms need to be based on the regular sharing of information and a solid framework of formal and informal relationships at political and technical level between all relevant sector stakeholders. However, as observed by the Functional Analysis of the Justice Sector in Bosnia and Herzegovina, as well as the Public Administration Reform Strategy for Bosnia and Herzegovina, the justice sector in Bosnia and Herzegovina is currently largely missing such mechanisms and capacities. It therefore needs to establish them and make fully operational in the shortest possible period of time.

Whilst politically responsible for ensuring the general functioning of the justice sector, the ministries of justice on all levels will inevitably be faced with numerous challenges if they are effectively to perform their policy-making function in particular in relation to the judiciary. The judiciary - one of the main components of the justice sector - is an independent branch of government. All ministries of justice will need to keep this independence constantly in mind while exercising its policy-making mandate. For that reason, it will be crucial to develop and maintain the equilibrium of power and partnership relationships between different justice sector institutions, to the extent reasonably possible, particularly with respect to the functions and role of ministries of justice vis-à-vis the HJPC of Bosnia and Herzegovina, the courts and the prosecutorial services.

The methodology that was used for the development of the JSRS may represent an important first step in this direction. It managed, among other things, to lay the solid foundations of the culture of compromise at both, political and technical level throughout the justice sector, which all resulted in consensual and coherent cross-sectoral approaches to problem identification, problem-solving and priority-setting. Accordingly, the programs below are aimed at building on this to improve the current state of affairs.

Strategic program	Responsible institution(s)	Time frame for implementation <sup>8</sup>	Indicators of implementation
Establish and hold ministerial conferences, with HJPC President in attendance as well	BiH and Entity MoJs, and BD JC	months 12 – 60	1. Initiate and hold ministerial conferences at least every six months, with HJPC President in attendance as well;  2. Initiate and hold at least quarterly meetings of the MoJ Secretaries and Assistants to Ministers;  3. Strengthening capacities of the BiH MoJ's SSPACEI for the purpose of providing technical assistance for these meetings
Strengthen the coordinating role of the BiH MoJ	BiH MoJ	month 12	1. Clarification of legal provisions regulating the coordinating role of the BiH MoJ and formal coordinating mechanisms with entities and BD JC
Conduct in depth analysis of the impact of the MoJ restructuring at the cantonal level	Federation BiH MoJ and Cantonal MoJs	months 36 – 48	1. In depth analysis conducted, with recommendations

Expected outcomes of the strategic programs:

- Promotion of better coordination and consultation between different parts of the justice sector in Bosnia and Herzegovina at both political and technical level that would ensure more harmonious and effective management, monitoring and evaluation of the multiple tasks involved in the reform processes so that justice sector as a whole meets collective objectives.
- Improved efficiency by avoiding duplication of effort and achieving coherence by approaching the jointly identified problems from a sector-wide perspective;
- Prioritisation of reforms across the whole sector, which will have a greater impact than directing scarce resources to areas which may be less in need than another;
- Coherence of reform: improvements in one area may be dependent on corresponding changes in another;
- A greater focus on the end result for citizens resulting in securing support for more effective change and reform that has a greater chance of success because it takes full account of the fact citizen needs as well as the intricate relations between the various levels and segments of justice sector.

<sup>8</sup> Expressed in months from the adoption of the JSRS.

## **Strategic Planning and Policy Development**

Clearly, no reforms can be brought about efficiently and effectively in the absence of political strategic leadership. On the other hand, political strategic leadership cannot be ensured unless it is underpinned by proper strategy development and policy making machinery, proper coordination and consultation mechanisms and procedures, implementation plans, and monitoring and evaluation instruments. Otherwise, reform efforts will be disjointed, ill-informed, and implemented in a fragmentary manner causing waste of scarce budgetary funds and time.

Strategic planning and policy-making, as well as the management of the dynamic linkages between the two, are typical responsibilities of individual ministers and collectively of respective governments. On the other hand, the preparation of plans, the analysis required to uphold the plans, and the activities required to implement the plans (e.g. policy development and law drafting) are typical tasks of the ministry's administration. Consequently, in order to be able to respond efficiently and effectively to their responsibilities, ministries need professional and skilled administration.

However, until recently, none of the ministries of justice in Bosnia and Herzegovina had such organizational and human resource apparatus to take charge of coordinating justice sector strategic planning and policy development or for initiating harmonization of justice sector legislation together with different layers of government in Bosnia and Herzegovina. In late 2006, the Ministry of Justice of Bosnia and Herzegovina established a Sector for Strategic Planning, Aid Coordination and European Integrations ("SSPACEI"), with the mandate to assist the leadership of the Ministry of Justice of Bosnia and Herzegovina in its medium-term and annual planning responsibilities, coordinating relevant activities both at an institutional and sectoral level, to help achieve both horizontal and vertical integration.

The newly established SSPACEI is supposed to become a central coordination hub for strategic planning, policy-making, donor coordination and EU integration activities within the Ministry of Justice of Bosnia and Herzegovina, as well as at sector level pursuant to Article 13 of the Law on Ministries and Other Administrative Bodies of Bosnia and Herzegovina. However, entity ministers of justice currently do not have any such organizational and human resource capacities. This is why the initial step made by the Ministry of Justice of Bosnia and Herzegovina in enhancing the technical-level cross-sector coordination and consultation mechanisms needs speedily to be followed by Entity Ministries of Justice which should also establish similar - but smaller - units with primary task to liaise with the SSPACEI in the Ministry of Justice of Bosnia and Herzegovina in the process of strategic planning, policy development and legislative drafting. Moreover, given the fact that the SSPACEI is not yet fully staffed, the Ministry of Justice of Bosnia and Herzegovina will also need to invest speedily and heavily in recruiting the remainder of staff so to make it fully operational.

Last but not least, ministries of justice at the state and entity level, the Brcko District Judicial Commission and the HJPC rarely exchange relevant information. Ministries of justice randomly collect substantive statistical data regarding their respective areas of responsibility. None of them possess the central data base that would facilitate their strategic planning, policy-development and law drafting functions.

To address the issues as stated above the following strategic programmes have been agreed:

Strategic program	Responsible institution(s)	Time frame for implementation <sup>9</sup>	Indicators of implementation
Establish institutional capacities for strategic planning and policy development	BiH MoJ and Entity MoJs	month 12	1. Smaller units for strategic planning established and operational in the entity MoJs;  2. Centre for policy development, documentation and research established in BiH MoJ
Develop and maintain a system of collection, analysis and exchange of all relevant information among the key justice sector institutions	BiH and Entity MoJs, BD JC and HJPC	months 12 – 60	1. Types, ways of collection and access to relevant information defined; 2. System of collecting, analysis and exchange of information established between the justice sector institutions and NGO sector

#### Expected outcomes of the strategic programs:

- Development of more informed, appropriate and more strategic justice sector policies in Bosnia and Herzegovina that are also better coordinated between the levels of government and between the various justice sector institutions.
- Better communication and cooperation between justice sector institutions and between justice sector institutions and the NGO sector.

#### **Donor Coordination and EU Integration**

Where the activities of a number of donors in the same sector are uncoordinated, there is a risk not only of duplication of effort (the intended effects are already being achieved by another donor) but also of mutual obstruction, with projects under way that conflict with each other. The end result is that the effects cancel each other out and funds are wasted. The multiplicity of donors in Bosnia and Herzegovina, each with its own projects, programmes, interests, concepts, structures and procedures, increases the necessity of coordination. For that reason, donor coordination will be relevant as long as a large number of bilateral and multilateral donors operate in Bosnia and Herzegovina.

Although significant progress has been made in recent years, donor coordination in Bosnia and Herzegovina is still a challenge. Until recently, the greatest weaknesses appeared to be the absence of a forum at sector level for a dialogue between the Ministry of Justice of Bosnia and Herzegovina and the donor community on procedural and substantive integration of aid through donors' adherence to justice-sector strategy, policies and priorities. This was further hampered by the lack of a state-wide justice sector strategy. Now that these two shortcomings are being removed, the next phase of donor coordination will be a transition from a donor-led approach to a point where the Ministry of Justice of Bosnia and Herzegovina has stewardship of the donor coordination process. Indeed, very encouraging steps in this direction have already been made.

During the upcoming negotiations for the adoption of the Acquis Communautaire on Justice Matters, the Ministry of Justice of Bosnia and Herzegovina is expected to take a principal representative position for the justice sector in Bosnia and Herzegovina. However, the EU integration tasks are substantial and capacities within the Ministry of Justice of Bosnia and

<sup>9</sup> Expressed in months from the adoption of the JSRS.

Herzegovina to deliver them are scarce. Mainstreaming these EU integration functions into day-to-day operations at the professional level is likely to prove difficult. At present, coordination with the Directorate for European Integrations of BiH (“DEI”) takes place mostly at the political level through the ministerial cabinet and Secretary of the Ministry of Justice of Bosnia and Herzegovina. Entity ministries of justice have a very limited relationship with the DEI, and they have virtually no internal administrative capacity or staff who could take charge of and deal with the EU integration process from the justice sector perspective. In general, knowledge of the relevant justice system EU *Acquis* among ministries of justice in Bosnia and Herzegovina is very limited.

The pressure and massive workload of EU Integration processes will be intense, and an immense effort will be required to coordinate and implement the process horizontally and vertically. It is therefore of paramount importance for the key justice sector institutions in Bosnia and Herzegovina to start to engage themselves in implementing the strategic programs set out below over the following medium term period.

Strategic program	Responsible institution(s)	Time frame for implementation	Indicators of implementation
Establish and maintain a mechanism for coordination of the justice sector institutions to effectively coordinate with the donors	BiH and Entity MoJs, BD JC and HJPC	months 12 – 60	1. Mechanism of joint coordination with donors defined and implemented with clear division of competencies among the institutions
Establish the infrastructure and capacities in BiH and Entity MoJs for support to the process of regulation harmonisation in the BiH justice sector with the <i>Acquis Communautaire</i>	BiH and Entity MoJs, and BD JC	months 12 – 60	1. Persons or units for harmonisation of the regulations established; 2. Civil servants trained and acquired appropriate specialist skills in the field of harmonisation, including the application of the policy and regulations impact assessment tools

Expected outcomes of the strategic programs:

- More strategic and systemic approach to donor coordination at sector-wide level that will act as a first step towards Sector Wide Approach (“SWAp”) to donor programming and funding<sup>10</sup>.
- Improved institutional and sector capacities to efficiently and effectively prepare, coordinate and carry out the upcoming EU justice matters related accession process in BiH.

<sup>10</sup> Although there is no single, widely accepted definition or model of a sector-wide approach to provision of donor support, the central idea of a SWAp is that in a given sector in a given recipient country, all significant donor interventions should be consistent with an overall sector strategy and sector budget that have been developed under the leadership of the recipient country.



### ***Overview of JSRS strategic programs timeframes for implementation***

As is evident by the tables presented in the sections above for each of the strategic programs, a timeframe for implementation has been proposed. Table 3 below, provides an overview of all the strategic programs aligned according to their proposed timeframes. Programs with short and immediate timeframes precede those that have longer timeframes and which need to be implemented at a later time.

This table will provide insight into the sequencing of various activities under the strategic programs over the five-year reform timeframe, as well as assist the individual justice sector institutions in their institutional strategic planning. However, Section 7 identifies those strategic programs that are of the highest priority and critical for further implementation, monitoring and evaluation of the JSRS as a whole. These priority programs should also be taken into consideration when developing institutional strategic plans. Further guidelines on the links between this sector strategy and individual institutional strategic plans are provided in Section 8.

**Table 3: Overview of strategic programs by timeframes for implementation**

Strategic Programs	Timeframe for implementation					Responsible institution(s)	Pillar of Reform
	12 months	24 months	36 months	48 months	60 months		
Look into possibility of harmonising the procedure for selection of the BiH Constitutional Court judges with the existing procedures for the selection of judges for the RS and FBiH Constitutional Courts						BiH MoJ and HJPC	Judicial System
Conduct analysis of the required changes to legislation, with the aim of decreasing the number of backlog cases in the enforcement procedure based on the authentic documents and propose appropriate measures						BiH and Entity MoJs, BD JC and HJPC	Judicial System
Improve provisions pertaining to disciplinary responsibility of the judges and prosecutors in the Law on HJPC BiH						BiH MoJ and HJPC	Judicial System
Reform and improve the system of bar exams in BiH						BiH and Entity MoJs and HJPC	Judicial System
Pass a new law on international legal aid and cooperation in criminal matters in BiH						BiH MoJ	Access to Justice
Establish a registry of convictions for BiH citizens convicted abroad						BiH MoJ	Access to Justice
Develop criteria and regulations regulating the number and status of the land registry employees						Entity MoJs, BD JC and HJPC	Support to Economic Growth
Strengthen the coordinating role of the BiH MoJ						BiH MoJ	Well-managed and Coordinated Sector
Establish institutional capacities for strategic planning and policy development						BiH MoJ and Entity MoJs	Well-managed and Coordinated Sector
Develop and adopt a plan for funding the reconstruction of the courts from domestic, credit and donor resources, based on the architectural and technical plan of the HJPC						BiH, Entity and Cantonal MoJs, BD JC and HJPC	Judicial System
Develop policy and pass appropriate regulation, regulating the administration of the courts and prosecutor's offices						BiH and Entity MoJs, BD JC and HJPC	Judicial System
Develop and round off the application of time measures in all courts and prosecutor's offices in BiH						HJPC	Judicial System
Begin setting up a system of foreseeable timeframes in processing cases in courts, in line with the recommendations of the Council of Europe (CEPEJ)						HJPC	Judicial System
Establish a legal obligation of hiring apprentices, apprentices - volunteers and expert associates in all courts and prosecutor's offices in BiH, proportionate to the size of the courts and prosecutor's offices						BiH and Entity MoJs, BD JC and HJPC	Judicial System
Pass framework Law on criminal sanctions execution in BiH and harmonise all regulations pertaining to criminal sanctions execution						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions

Strategic Programs	Timeframe for implementation					Responsible institution(s)	Pillar of Reform
	12 months	24 months	36 months	48 months	60 months		
Conduct re-categorisation of the prisons and classification within the prisons						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Create legal and institutional framework for the establishment of the free legal aid system in BiH in criminal and civil matters						BiH and entity MoJ and BD JC	Access to Justice
Define clear mechanisms and activities of promoting and encouraging the use of mediation among the judges in BiH						HJPC	Support to Economic Growth
Ensure unified standards of quality in terms of providing services in the land registry offices						Entity MoJs and BD JC	Support to Economic Growth
Development of the study about realistic financial needs of the judicial institutions in BiH, taking into consideration priorities in the judiciary						HJPC	Judicial System
Establish single substantive and procedural laws in criminal and civil matters						BiH and entity MoJs, Brcko District JC and HJPC	Judicial System
Option no. 1: Establish a body for harmonisation of court practice in BiH. Option no. 2: Establish Supreme Court at the state level that would ensure harmonised court practice in BiH						BiH and entity MoJs, Brcko District JC and HJPC	Judicial System
Develop conditional release system						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Advance the system of treatment for specific categories of prison population (minors, women and persons under obligatory treatment)						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Advance the system of health protection for the entire prison population						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Establish a system of independent prison inspection in BiH						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Explore modalities for a more active engagement of the NGO sector in BiH in monitoring the justice sector work in BiH						HJPC, BiH and entity MoJs and BD JC	Access to Justice
Strengthen the role of the BiH MoJ in defining policies for the alternative dispute resolution and in the establishment of the system of evaluation and monitoring of the implementation and effectiveness of the mediation						BiH MoJ	Support to Economic Growth
Finalise legislative framework needed for optimal functioning of the land registry system						BiH and entity MoJs, BD JC	Support to Economic Growth
Development and implementation of formal mechanism for preparing, adopting and executing budget of the judicial institutions in BiH which ensure independence of judiciary						BiH and entity MoJs, Brcko District JC and HJPC	Judicial System

Strategic Programs	Timeframe for implementation					Responsible institution(s)	Pillar of Reform
	12 months	24 months	36 months	48 months	60 months		
Option no. 1: Creating a single budget for the judicial institutions in BiH Option no. 2: Financing budget of the judicial institutions from a single source						BiH and entity MoJs, Brcko District JC and HJPC	Judicial System
Implement in full the information and communication strategy of the courts and prosecutors' offices developed by the HJPC						BiH, Entity and Cantonal MoJs, BD JC and HJPC	Judicial System
Provide continuous training in management for managerial staff in the institutions of the BiH judiciary						HJPC, CEST FBiH, CEST RS and BD JC	Judicial System
Implement the adopted medium-term strategic plans for training of the judges and prosecutors CEST FBiH, CEST RS and BD JC						HJPC, CEST FBiH, CEST RS and BD JC	Judicial System
Achieve recognition for execution of alternative sentences and implement the "community service" institute						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Improve conditions by reconstructing existing prisons, abandoned military facilities and construction of the state prison						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Develop and implement coherent system of education and training for prison staff in BiH						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Establish mechanisms that ensure targeted professional development programme for judges and prosecutors in BiH, as well as for civil servants in the bodies that have a role in providing international legal aid and cooperation						BiH and entity MoJs, Brcko District JC, HJPC and CEST FBiH and RS	Access to Justice
Ensure harmonisation of the court practice in BiH related to international legal aid and cooperation						BiH Court, FBiH and RS Supreme Courts, BD Appeals Court, BiH and entity MoJ and BD JC	Access to Justice
Define legal and institutional framework for continuous implementation of the training programme for free legal aid providers						BiH and entity MoJ and BD JC	Access to Justice
Ensure full implementation of the Care of Court Users Strategy in BiH						HJPC, BiH, entity and cantonal MoJs and BD JC	Access to Justice
Increase the level of information accessible on organisation and work of the courts and prosecutor's offices in BiH to the wider BiH public						HJPC, BiH, entity and cantonal MoJs and BD JC	Access to Justice
Ensure strategic guidelines for development of the ADS						BiH MoJ	Support to Economic Growth
Promote benefits of the alternative dispute resolution at the level of BiH executive authorities						BiH MoJ	Support to Economic Growth
Continue promoting alternative dispute resolution among the businesses, legal representatives and the academic community						BiH Association of Mediators, Bar Associations	Support to Economic Growth

Strategic Programs	Timeframe for implementation					Responsible institution(s)	Pillar of Reform
	12 months	24 months	36 months	48 months	60 months		
Advance capacities of the Association of Mediators in BiH with regards to development of human resources, standardisation system, training, licensing and service provision						BiH MoJ, BiH Association of Mediators	Support to Economic Growth
Continuously conduct training on successful referral of cases for mediation, as part of the professional development of the judges and initial training						HJPC, BiH and entity MoJs, BD JC and CEST FBiH and RS	Support to Economic Growth
Ensure a system of mediation services provision throughout BiH						BiH and entity MoJs, BD JC, BiH Association of Mediators	Support to Economic Growth
Strengthen capacities of the entity MoJs for the land registry system needs						Entity MoJs and BD JC	Support to Economic Growth
Strengthen capacities of the land registry offices in terms of the land registry administration needs						Entity MoJs, BD JC and HJPC	Support to Economic Growth
Ensure mechanisms for harmonised legislation in the land registry sector in BiH						Entity MoJs, BD JC and SKOZ BiH	Support to Economic Growth
Contribute to better coordination with institutions in the land registry administration sector						Entity MoJs, BD JC and SKOZ BiH	Support to Economic Growth
Establish and hold ministerial conferences, with HJPC President in attendance as well						BiH and Entity MoJs, and BD JC	Well-managed and Coordinated Sector
Develop and maintain a system of collection, analysis and exchange of all relevant information among the key justice sector institutions						BiH and Entity MoJs, BD JC and HJPC	Well-managed and Coordinated Sector
Establish and maintain a mechanism for coordination of the justice sector institutions to effectively coordinate with the donors						BiH and Entity MoJs, BD JC and HJPC	Well-managed and Coordinated Sector
Establish the infrastructure and capacities in BiH and Entity MoJs for support to the process of regulation harmonisation in the BiH justice sector with the Acquis Communautaire						BiH and Entity MoJs, and BD JC	Well-managed and Coordinated Sector
Define precisely the extradition and transfer procedure for the convicted persons and set up financing procedure through budgets of the appropriate ministries and BD JC						BiH and entity MoJ and BD JC	Access to Justice
Establish prison administrations						BiH and entity MoJs, Brcko District JC	Execution of Criminal Sanctions
Conduct in depth analysis of the impact of the MoJ restructuring at the cantonal level						Federation BiH MoJ and Cantonal MoJs	Judicial System
Strengthening capacities of the Justice Ministry and HJPC in preparation and execution of the budget, in line with the competencies as defined in the law						BiH and entity MoJs, Brcko District JC and HJPC	Judicial System

Strategic Programs	Timeframe for implementation					Responsible institution(s)	Pillar of Reform
	12 months	24 months	36 months	48 months	60 months		
Conduct a study on modalities of the wider application of mediation and other types of alternative dispute resolution in BiH						BiH MoJ	Support to Economic Growth
Analyse the established free legal aid system in criminal and civil cases, focusing on effectiveness and efficiency of the free legal aid system						BiH and entity MoJ and BD JC	Access to Justice

## **SECTION 6: IMPLICATION OF THE JSRS TO MEDIUM-TERM BUDGETS**

### ***Introduction***

All 14 governments, with justice sector responsibilities, in Bosnia Herzegovina have introduced a new system and processes for budget planning. The system and processes are common to all 14 jurisdictions. The new budgeting system and process has been in place at BiH, RS and FBiH levels for four years. In Brcko District and the ten Cantons it has been in place for the last two years.

Along with many other developing countries, BiH needed a budget process which looked at the medium term as well as constructing budgets for the following year. At the same time management needed to be engaged more fully in the planning process and in the delivery of efficient and effective services. The process of prioritisation between competing bids also required attention as requests from budget users consistently exceeded the available resources by some considerable extent. In addition, laws and rule books have approved in BiH with little consideration of the cost or affordability of the proposals.

The three main features of the new budget processes are:

- The use of programme budgeting to structure bids and financial management
  - Each spending unit groups its activities into a limited number of programmes
  - The programmes are managed collectively to achieve an overall operational objective or objectives
  - Each year the programmes submit bids for additional resources as well as indicating ways in which efficiencies and cost reductions will be achieved
- The compilation of three year budgets at all levels
  - Each government, advised by their MOF, determines budget ceilings for all budget users for a three year period
  - Budget users can plan in the medium term with three year spending allocations covering recurrent and capital spending
- The requirement to supply performance information for both existing funding allocations as well as bids for future increased funding
  - Each budget user must demonstrate an efficient and effective use of the current funding
  - In addition performance data must be supplied to indicate target performances for the next three years in terms of outputs, outcomes and efficiencies

Providing budget users conform to the information requirements of the process, their bids for extra resources can be assessed systematically. Priorities are selected after some analysis of the performance data which has been submitted. Failure to actively participate in the process is likely to lead to no increases in funding.

The focus on budget planning now takes place in the first half of the year with an end date of 30 June. By that time all governments should have approved their Budget Framework Paper setting the factors which have led to the revenue forecasts, general fiscal strategy and the determination of budget ceilings for each budget user for the next three years.

### ***Budget prospects for the medium term***

The Budget Framework Papers approved in 2007 offer some clear indication of the overall budget prospects for the next three years. It is within this context that actions listed in JSRS will have to compete for scarce resources with all of the other sectors. Each sector in Bosnia is facing the demands and needs of citizens together with the pressures from the international community to upgrade services and create additional functions.

Current forecasts expect an annual GDP growth of around 5.5% for the medium term. BiH will continue to have to operate a tight fiscal strategy, maintaining a strong control over public spending to avoid even higher current account deficits. The revenues controlled by the Indirect Taxation Authority are forecast to increase by just over 3% per year. Even when other revenues are taken into account the prospects for funding growth in the medium term are limited. Each sector within the public sector as a whole will have to secure the maximum output from existing resources as well as bidding for the limited increase in funds which are available. These increases will have to fund salary increases as well as extra staffing and other increases in running costs and capital spending.

Many sectors are struggling to sustain an adequate level of spending on materials and capital projects. As a result many staff are less productive. Any significant transfer of resources from salaries to materials and capital will have to be achieved within sectors rather than from major additional allocations. There is an ongoing tension between the levels of spending at the state, entity, canton and municipality levels. Each level of government is under pressure to expand its services and functions, thus creating significant competing forces for the limited growth in public funds.

### ***Synergies between JSRS & the budget process***

There are a number of synergies between the ambitions of JSRS and the new budget process. The medium term budget planning horizons do support the implementation of JSRS in a more effective manner than the former annual budgeting process. Now that the budget process is being documented in a similar manner across all levels of government it is easier to extract information for whole sectors. The programme structure breakdown, for example, allows the spending on courts at all levels to be aggregated more easily, thus providing a national picture.

The programme structure for each budget user, with a nominated senior manager responsible for the management of each programme, encourages a more strategic focus on developments and improvements. This should align well with the strategic objective framework of JSRS. It should enable the programmes of individual budget users to set their activities and spending into the wider context.

JSRS is aimed at improving the performance of the justice sector in meeting the needs of citizens and meeting international requirements. The budget process has a comparable output focus, requiring performance to be monitored and future performance targets to be set.



### ***Challenges for JSRS and the budget process***

While the new budget process offers opportunities to the justice sector, it also requires the justice sector to improve its own internal processes and performance. For the immediate future the justice sector will continue to seek resources from all 14 governments. The bids for new growth, the forecast of improved performance and the focus on outputs will need to be coordinated to facilitate a more even pattern of improvement and development across the whole sector as well as within its component parts. A mechanism will be required to support consultation and collaboration before the bidding process. This mechanism could also be deployed to provide consistent information to all 14 MOFs and governments to encourage more consistent decisions and priority selection.

Within the sector, all senior managers will need to become skilled at managing their responsibilities within the budget framework. Costing proposals and testing affordability will have to be pre-requisites for legislative drafting and policy making. This will require training programmes, with access for all relevant managers in both institutions and ministries, focused on improving financial planning and execution skills.

The budget bids and completion of the relevant forms in the budget process need to be underpinned by a strategic plan and planning process in each jurisdiction. While some have already taken steps to meet this requirement, other ministries need substantial support to bring them to an adequate standard in strategic planning and delivery. The justice sector institutions have to be in a position to make clear and substantiated bids by April each year.

The need for accountability will be reinforced by the budget process. In future years the performance of the sector against its forecast targets will probably be a critical factor in the decisions on priorities and funding allocations. Not only will the sector have to sustain a sound information system to monitor progress but its managers will have to ensure its forecast progress and performance targets are fully met.

### ***Budget Framework for JSRS – Budget Framework Papers 2008/2010***

The 14 governments with a justice function have just completed another round of Budget Framework Papers (BFP) for the period 2008/2010. These BFPs take the form of preliminary budgets and set the framework for the annual budget determination by each government. These latest BFPs provide a clear guide for the implementation of JSRS as they set out the current expectations for spending in the justice sector across the 14 governments.

The funding position of the justice sector has to be set against the overall financial situation across the 14 governments. Over the next three years the BFPs are forecasting overall spending levels as follows:

**Table 4: Estimates for overall spending 2007 – 2010 from BFPs**

Millions KM	2007	2008	2009	2010
<b>BiH</b>	750	861	910	1002
<b>Brcko</b>	223	193	189	192
<b>RS</b>	1730	1784	1839	1907
<b>FBiH</b>	1435	1402	1486	1531
<b>Cantons</b>	1764	1769	1776	1833
<b>TOTAL</b>	5902	6009	6200	6465
<b>% annual increase (overall)</b>		1.8%	3.1%	4.3%

These spending levels will have to cover salary increases, higher costs for materials and sustaining as large a capital programme as possible. There will be severe competition for the limited additional resources at all levels, with several other sectors also having very strong claims for priority funding growth.

A brief analysis of the BFPs, from the justice sector perspective, shows that there are a number of factors underpinning the demand for extra resources in the justice sector:

- The need to provide replacement funding for projects and developments initially funded by international donors, e.g.
  - The transfer of current international funding to BiH, over the next three years, for the State Registry, State Prosecutor and State Court. This will result in an additional annual funding requirement of over KM14 million by 2010 simply to maintain the current position.
  - The funding requirement of HJPC to replace international funding of its operations which will total over KM 3 million by 2010
- The need and commitments to complete the funding of institutions according to the approved Rulebooks, especially in relation to staffing levels, e.g.
  - BiH MOJ will expect to have a further 45 staff by 2010
  - RS Attorney General's Office to have an additional 33 staff by 2010
  - RS MOJ to receive KM 3 million to support a more adequate levels of spending on non staffing items for existing services
- The need to fund new developments to fill gaps in the framework of services within the justice sector, e.g.
  - BiH proposals for the creation of a more widely available civil and criminal legal aid system, which will hopefully start in 2008
  - In RS the establishment of a special department within the Regional Court Banja Luka, in line with the Law on Fight against Organised Crime and Heavy Forms of Economic Crime
- The provision of international donor funds to support additional services within the justice sector. At a future date, these new developments will need to be funded from BiH sources, and this will place further pressures on funding by committing funds in advance. Examples include:
  - The capital expenditure to construct a State Prison facility costing over KM 24 million, with an eventual estimated minimum annual cost of KM 6 million in 2010
  - Procurement of additional ICT equipment for 86 courts and prosecutors' offices in FBiH and RS. Until now, these activities were financed by the International community (EC, USAID, ICITAP, Norwegian Government etc.), and now activities are being transferred to domestic source of financing, for which needs in 2008 are 2,94 mill KM, in 2009 3,96 mill KM and in 2010 3,33 mill KM (presented in the capital investments of the HJPC).

- FBiH Ministry of Justice for the unit for land-registry administration requiring KM 3,2 mil in 2008, KM 3,2 mil in 2009 and KM 3,2 mil in 2010. Financing will be from donor funds but eventually the costs will have to be borne by FbiH budget funds.

In addition to the examples quoted above there are other projects and developments, supported currently by international donors, which will require BiH funding to sustain the services in the longer term. It will be necessary to assess the full level of current dependency on international funding for current services in order that a complete picture is obtained of the requirement for BiH replacement funding to maintain existing services. For example, FBiH will receive over KM 3 million for the next three years to support land registration, but at the end of this period the costs will have to be supported from the FBiH budget. The assessment should also include the consequential demand for BiH resources from internationally funded capital developments of both construction and equipment projects, especially ICT projects. The justice sector has received a massive amount of ICT investment, funded by international donors, and this investment has to be funded to maintain, repair and replace ICT equipment which is fundamental to the operation of existing services. This will place a very significant burden on materials spending across all governments.

Within the budget process for all governments, there is an expectation that savings from improved management of existing services, or the deletion of some existing services, will create some funds which can then be applied to new projects and developments. However, an examination of the BFPs reveals that virtually no savings have been identified in the justice sector. A critical source of funds for new projects is thus not available, thus intensifying the sector's need to compete with other sectors for the limited 'growth' funds. As the sector is funded by 14 governments, and is thus very fragmented, it is unlikely that significant resources can be found from savings. If the justice sector had a single budget it is possible that some rationalisation of services could lead to savings and provide funding for new projects.

In view of the demands which flow from the proposals in the previous sections of the JSRS, and in the light of the budget processes being followed by governments a critical task within the action plan for JSRS will be the construction of an affordable funding strategy to underpin the action plan. In their programme formats the budget priority review tables submitted by all justice sector institutions provide a detailed base from which a comprehensive financial picture for the sector can be developed. In looking ahead to the implementation of JSRS it will be vital that a comprehensive strategy is compiled taking into account:

- The detailed current financial position of all justice sector institutions as set out in the programme budget tables provided to all 14 governments
- An assessment of the current level of dependency on international funding and the future implications for BiH funding
- A rigorous review of all funding in the justice sector to identify any savings to be afforded in order to provide some funding for the additional services and operations set out in JSRS
- A creative examination of ways of funding developments in the justice sector which is not wholly constrained by the current jurisdiction divisions

## **Conclusions**

The new budget process offers much opportunity for the justice sector to be funded at improved levels. It is a sector which has already had a significant amount of support for strategic development and increased performance. The implementation of JSRS should further enhance this progress. Other sectors may be starting with a weaker position but as they become more effective, the competition for resources will intensify. The justice sector will have to promote its case based on sound evidence, commitment and delivery even to stay in its present position. In order to meet the expectations of the JSRS, the justice sector, overall, will have to access much higher levels of funding from all governments. This will be a severe challenge in the years ahead, starting with the budget cycle for 2009/2011 in early 2008. It is likely that the sector will be more successful if its bids are underpinned by a sound longer term financial strategy.

## **SECTION 7: IMPLEMENTATION OF THE JSRS**

### ***Managing the implementation of the JSRS***

The objectives and programs determined in the preceding sections set the strategic courses of action for addressing the key issues of the justice sector in Bosnia and Herzegovina in the coming five-year period, which have been agreed between the relevant justice sector institutions through a highly consensual and consultative approach. Given the complexity of the legislative and governance arrangements of the sector, a similar process also needs to be adopted for monitoring progress against indicators determined in the JSRS.

However, the ultimate responsibility for the implementation of the objectives and programs envisaged in the JSRS will lie with all responsible institutions identified in the Strategy. Considering a large number of responsible institutions, coordination of the activities will be of great importance. The overall coordination of all activities will be entrusted to the Sector for Strategic Planning, Donor Coordination (SSPACEI), and European Integration of the Ministry of Justice of Bosnia and Herzegovina. Once the strategic planning units are established in the entity Ministries of Justice (as planned within this Strategy), they will be a major support to the SSPACEI in overall coordination and implementation.

Further, SSPACEI will be in charge of preparing the proposed Justice Sector Ministerial Conferences of Bosnia and Herzegovina and also performing the role of technical secretariat and advisor to them. This is the new concept in the public administration of Bosnia and Herzegovina, but an instrument, nonetheless, widely used in other federal states. The members of the Ministerial Conferences would be the ministers of justice of Bosnia and Herzegovina, entity, and cantonal levels, as well as the President of the Brčko District Judicial Commission. The President of the HJPC should also attend and participate in all Ministerial Conferences. Apart from closely monitoring the implementation of the Strategy and providing the political and strategic direction for the Strategy, Ministerial Conferences may be used as a great forum for discussing other related issues which fall outside the realm of this Strategy but are of concern for the justice sector. Ministerial Conferences, if prepared and managed successfully, may become a good example for other sectors seeking to improve the level of coordination and cooperation among key stakeholders.

It is planned that Ministerial Conferences are held twice a year. Each conference will firstly review progress of the previous six months against proposed joint annual work plans and decide upon any needed changes for the following six months, for all the pillars of the JSRS. If programmes need to be re-modified or changed the members attending the ministerial conference will have a mandate to do so. If deemed necessary Ministerial Conferences may include other areas of concern for the justice sector and discuss them at these events. It is of utmost importance that Ministerial Conferences become a recognizable event in the calendar of governmental business and wide support for them is ensured.

For each of the strategic pillars, permanent functional working groups will be established. These will be responsible for developing annual joint work plans and be in charge of taking forward all the activities identified within a particular strategic pillar. The Steering Board responsible for overseeing the development and approval of this Strategy is responsible for appointing these working groups (based on the nomination provided by SSPACEI) before its mandate expires. Ministries of justice of Bosnia and Herzegovina, represented by their respective secretaries or assistant ministers (depending on the strategic pillar in question), should be members of these working groups, together with other key justice sector stakeholders (such as the HJPC and others).

It is recommended that the permanent working groups meet at least quarterly and that this forum be used by its attendees to discuss other matters of relevance for the justice sector, aside from those set by the JSRS. SSPACEI will perform the role of the technical secretariat for the work of the functional working groups making certain that identified appropriate activities are undertaken, monitored and reported within designated timeframe and identified outcome.

As is obvious from all that is previously said, it is of great importance for the successful implementation of the JSRS that SSPACEI of the Ministry of Justice of Bosnia and Herzegovina is fully staffed and that entity ministries of justice create smaller but similar units which will assist in the process of managing the implementation and making future strategies. It is also important that these units invest time, energy and resources in continuous building of its analytical capacities in monitoring and evaluating the progress against plans and developing new justice sector plans and policies. SSPACEI still needs to gain the trust by the other justice sector stakeholder if it desires to be driving force of the reforms. This requires from SSPACEI to become centre of excellence, a hub of knowledge and information offering its services to all in the justice sector.

### ***Policy initiatives foreseen by the JSRS***

Aside from establishing effective governance arrangements, the successful implementation of the JSRS depends largely on the capacities of justice sector institutions, in particular the ministries of justice, to develop analyses and accompanying policy recommendations for key issues identified in this Strategy. Sustainable reform in the justice sector is dependent on developing capacities and practises of conducting holistic reviews of relevant policy issues within the sector and proposing adequate policy initiatives needed to address these issues.

As foreseen by this Strategy, a policy unit should be established within the Ministry of Justice of Bosnia and Herzegovina and it should, at a minimum, lead and coordinate initiatives for the development of relevant policy analyses, but also support the decision-making process of the ministerial conferences.

Likewise, the JSRS explicitly foresees a series of legislative initiatives as ways of addressing core issues of the sector. It should be noted, however, that legislation is only one of many policy instruments governments can use to support a set strategic direction of action. All legislative initiatives should be preceded or accompanied by either a policy analysis or a wider consultation process (or preferably both). This is needed in order to ensure that the solutions/measures put forth by law are in accordance to best international practises and in conformity with practical needs and possibilities in Bosnia and Herzegovina.

However, given the current practice in Bosnia and Herzegovina and the fact that policy capacities are still underdeveloped, the JSRS foresees distinct programs for conducting both policy analyses and for developing (or amending) legislation, which should not be developed or approved without sound analysis supporting it. Conducting wider consultation as a part of the development of both policy analysis and legislative initiatives is not only recommended, but will be required.

For ease of subsequent institutional or sector-wide action planning, the strategic programs which will require policy analyses or legislative initiatives are presented in Tables 4 and 5 below.

The table presented below includes an overview of policy analyses identified explicitly within the Strategy. During the implementation of the JSRS - in particular as part of the conclusions of regular ministerial conferences – the need for additional policy analyses will no doubt be identified.

**Table 5: Policy analyses initiatives explicitly foreseen within the JSRS**

Pillar of reform	Strategic issue	Policy analyses topic	Timeline for development <sup>11</sup>
Judicial System	Efficiency and Effectiveness	Required changes to legislation, with the aim of decreasing the number of backlog cases in the enforcement procedure based on the authentic documents and propose appropriate measures	months 1 -12
Judicial System	Accountability and Professionalism	Analyses of possible common criteria and programmes for bar exams in BiH in line with needs and best practise	months 1 - 12
Judicial System	Accountability and Professionalism	Analysis of possible predictable deadlines for court cases, based on type of cases and courts	months 12 – 24
Support to Economic Growth	Mediation and Other Forms of Alternative Dispute Resolution	Experience so far in implementation of mediation	months 12 - 24
Judicial System	Independence and Harmonization	Analyses of realistic financial needs of judiciary taking into consideration judicial priorities	months 12 – 36
Access to Justice	Free Legal Aid and Access to Legal Information	Modalities of active engagement of NGO sector in BiH in regards to monitoring the justice sector	months 12 – 36
Execution of Criminal Sanctions	Prison Overcrowding	Development of a probation system in BiH	month 36
Well- Coordinated and Managed Sector	Coordination of Competencies	The effect of the restructuring of ministries of justice on the cantonal levels	months 36 - 48
Support to Economic Growth	Mediation and Other Forms of Alternative Dispute Resolution	Modalities of wider use of mediation and other forms of ADR in BiH	months 48 - 60
Access to Justice	Care of Court Users and Role of Civil Society	Efficiency and effectiveness of established legal aid system for criminal and civil matters	month 60
Execution of Criminal Sanctions	Prison Overcrowding	Introduction of other forms of alternative sanctions in BiH	month 60

The following table provides an overview of legislation that the JSRS has identified as necessary, either as direct strategic programs or as core elements of the strategic programs. During the implementation of the JSRS – in particular as part of the conclusions of regular ministerial conferences or as part of individual initiatives of the responsible justice sector bodies – it is expected that a need for other legislation or sub-legal acts will be identified.

<sup>11</sup> Expressed in months from time of JSRS adoption.

**Table 6: Legislative initiatives foreseen within the JSRS**

<b>Pillar of reform</b>	<b>Strategic issue</b>	<b>Legislative Initiative</b>	<b>Timeline for development</b>	<b>Responsible institution(s)</b>
Well-Coordinated and Managed Sector	Coordination of Competencies	Amendments of existing law(s) towards strengthening coordinating role of MOJ and towards establishing formal mechanisms for coordination with entities, cantons, JC BD, HJPC as well as other relevant justice sector institutions	months 1 – 12	MOJ BiH
Access to Justice	International Legal Aid and Cooperation	Law on International Legal Aid in Criminal and Civil Matters	months 1 – 12	MOJ BiH
Access to Justice	International Legal Aid and Cooperation	Establish legal framework for the establishment of a single registry of criminal offences of BiH citizens committed abroad	months 1 – 12	MOJ BiH
Judicial System	Independence and Harmonization	Legally harmonized procedure for the naming of judges of the Constitutional Court of BiH	months 1 – 12	BiH MoJ and HJPC
Access to Justice	Free Legal Aid and Access to Legal Information	Entity and cantonal laws on free legal aid in civil matters	months 12 - 24	Entity and cantonal MOJs
Access to Justice	Free Legal Aid and Access to Legal Information	Framework Law on free legal aid in criminal matters	months 12 - 24	MOJ BiH, entity MOJs and BD JC
Execution of Criminal Sanctions	Management of System	Framework law on execution of criminal sanctions and harmonization of all regulations in the area of execution of criminal sanctions	months 12 - 24	MOJ BiH, entity MOJs and BD JC
Execution of Criminal Sanctions	Application of International Standards	Law and sub-legal acts pertaining to the establishment of an independent prison inspection	months 12 - 24	MOJ BiH, entity MOJs and BD JC
Judicial System	Independence and Harmonization	New law or amendment to existing law(s) that would strengthen role of HJPC in preparing, adopting and executing judicial budgets, as well as clarify roles of MOJs in this process	months 12 - 24	MOJ BiH, entity MOJs, BD JC and HJPC
Judicial System	Efficiency and Effectiveness	Legally define policy and pass appropriate regulation, regulating the administration of the courts and prosecutor's offices	months 12 - 24	BiH and Entity MoJs, BD JC and HJPC
Judicial System	Accountability and Professionalism	Establish a legal obligation of hiring apprentices, apprentices - volunteers and expert associates in all courts and prosecutor's offices in BiH, proportionate to the size of the courts and prosecutor's offices	months 12 - 24	BiH and Entity MoJs, BD JC and HJPC
Support of Economic Growth	Land Administration Reform	Property Law	months 12 - 36	MOJ BiH, entity MOJs and BD JC



<b>Pillar of reform</b>	<b>Strategic issue</b>	<b>Legislative Initiative</b>	<b>Timeline for development</b>	<b>Responsible institution(s)</b>
Support of Economic Growth	Land Administration Reform	Law on division of state property	months 12 - 36	MOJ BiH, entity MOJs and BD JC
Support of Economic Growth	Land Administration Reform	Law on court fees amended with the aim of harmonising court fees for land registry procedures throughout BiH	months 12 - 36	MOJ BiH, entity MOJs and BD JC
Judicial System	Independence and Harmonization	Legally defining formal institutional mechanisms for (1) harmonizing laws OR (2) developing framework laws	months 12 - 36	MOJ BiH, entity MOJs, BD JC and HJPC
Judicial System	Independence and Harmonization	Law on body for coordinating court practise OR Law on supreme court of BiH	months 12 - 36	MOJ BiH, entity MOJs, BD JC and HJPC
Support of Economic Growth	Land Administration Reform	Complete harmonization of all regulations in entire BiH	months 12 - 60	entity MOJs, BD JC and SKOZ BiH
Judicial System	Independence and Harmonization	Law on financing of courts in FBiH OR Law on financing courts in BiH	months 12 - 60	MOJ BiH, entity MOJs, BD JC and HJPC
Access to Justice	International Legal Aid and Cooperation	Legally define modalities for financing extradition procedures and transfer of convicted persons (through development of Law on International Legal Aid, as well as amendment to Criminal Procedure Code)	months 24 - 36	MOJ BiH, entity MOJs and BD JC
Access to Justice	International Legal Aid and Cooperation	Harmonize CPL of entities and BiH, Law on Asylum and Law on Citizenship of BiH	months 24 - 36	MOJ BiH, entity MOJs and BD JC

## ***Monitoring and Evaluation of the JSRS***

Information gathering on progress made against the indicators as defined by the JSRS and the sharing of this information will be a key component of monitoring and evaluating reform initiatives throughout the justice sector in Bosnia and Herzegovina. An indicator is a measure that helps answer the question whether progress is being made toward a certain objective and by how much. Indicators can be used at the highest policy levels to measure progress towards an overarching purpose, such as reducing the level of violence in society, or assuring equal access to justice across lines of gender, ethnicity, or economic class. Indicators are also commonly used to measure progress toward institutional objectives (intermediate outputs) — such as increasing the number of criminal convictions of those committing violent crimes or expanding the provision of legal services to people in poverty — which are expected to contribute to broader policy goals. At a third level, indicators can be used to measure the daily activities through which an institution can attain its objectives.

Given the complex legislative and governance arrangements, it is not surprising that Bosnia and Herzegovina still lacks a comprehensive system of collecting, sharing and analysing performance management information for the justice sector as a whole. Nonetheless, this does not make the monitoring or evaluation of the JSRS impossible.

The indicators as defined in this strategy have been designed with the current rudimentary state of performance management systems throughout the justice sector in mind, as well as the modest capacities within the relevant justice sector institutions, particularly the ministries of justice, to analyse performance information in relation to policy.

In light of arrangements of JSRS implementation and monitoring, presented above, the strategic planning units of Bosnia and Herzegovina and the entities, in particular SSPACEI can maintain a relatively simple system of monitoring basic progress against the JSRS, at least for the first cycle of strategy planning. Through either questionnaires or direct consultations with relevant justice sector institutions, as well as through the regular meetings of the permanent functional working groups, the strategic planning units can provide input into the Ministerial Conferences on the status of implementation of individual initiatives within the JSRS. Likewise, an annual evaluation (based on regular progress reports prepared at least quarterly) prepared by SSPACEI with assistance of the entity strategic planning units are to be used as a basis for needed revisions to the JSRS.

Based on inputs received directly by individual institutions or via the permanent functional working groups, the strategic programs as set in this Strategy can be reported as being in one of the three phases:

1. **GREEN** – the strategic program has been implemented in line with the timeframes and the indicators as set by the JSRS or progress is on track and no delays in implementation are being anticipated. Strategic programs that have a GREEN status do not require any further actions and should be assessed in term of impacts they have had on implementation of overall strategic objectives or potentially will have once fully implemented.
2. **AMBER** – there are delays in the implementation of the strategic program which requires the attention of the members of the permanent functional working groups and decided upon during their regular meetings.
3. **RED** – the strategic program has not even been initiated. This requires attention and action by members of the Ministerial Conferences provided an explanation of the cause of the situation has been provided.

This type of assessment can be made without too much difficulty, and will rapidly give an overview of progress, as well as allowing assessment of the dynamics of implementing each strategic program and the strategic objective to which each of them contribute. Progress reporting of this nature will be provided at least semi-annually to members of the Ministerial Conferences, and quarterly to the members of the permanent functional working groups, and should be the basis for setting the agenda of these meetings.

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## **SECTION 8: LINKS BETWEEN THE SECTOR STRATEGY AND INSTITUTIONAL STRATEGIES**

### ***Role of Sector-wide Strategies***

A *sector*, in the sense used for the purpose of the development of this Strategy, is a group of public services that come under a single broad category such as health, education or transport. There is no single definition in European and international practise of what institutions constitute a *justice sector*, and much will depend on the specific constitutional, legal and institutional arrangements that exist in any given country. However, for the purpose of this Strategy the justice sector includes, but is not exclusively limited to the courts, judiciary, prosecution, ministries of justice on each of the levels, the HJPC and correctional services. Agencies involved in alternative dispute resolution, alternative sanctions, and provision of legal aid as well as respective training centres for the judiciary are also included.

To date, a number of functionally orientated strategies and plans have been prepared by justice sector institutions in Bosnia and Herzegovina, including the state and entity level Ministries of Justice, the HJPC and the Prosecutor's office of Bosnia and Herzegovina. However, these have all been developed from the perspective of an individual institution, using a variety of methodologies, with little attention being given to understanding the structure and dynamics of the sector as a whole. Although national strategies and plans, such as those referenced in Section 2 of this Strategy do provide high level frameworks to guide some aspects of planning and budgeting in the justice sector of Bosnia and Herzegovina, until the development and adoption of this Strategy there has been no single strategy that focuses solely on the sector as a coherent system made up of an inter-related set of institutions.

Various countries have adopted different models of justice sector strategy development, of varying degrees of complexity, based on their specific political, social and economic circumstances, and the capacities of the institutions involved. At a minimum, a sector wide approach should result in better communication and cooperation between institutions involved in shaping and delivering justice sector services, as is materialised in this Strategy through the establishment of Ministerial Conferences and permanent functional working groups to consider the cross-cutting issues as defined in this document, which would also provide for regular communication and consultation in relation to shared issues. At the other end of the spectrum, a sector-strategy can result in the introduction of more complex sector wide investment plans, joint governance arrangements or shared performance indicators.

The exact benefits resulting from a sector wide approach will depend on the level and type of cooperation and joint-working that takes place. It will also largely depend on the extent to which the reform initiatives agreed through the process of JSRS development and articulated through this document are permeated through the strategic and operational plans of each of the individual institutions that comprise the justice sector in Bosnia and Herzegovina. The development of a new strategy for the sector as a whole does not mean that these institutional plans will become redundant; they will become critical for the successful implementation of the JSRS and for ensuring that the strategic programmes as laid down in this document are reflected into annual plans of the government and annual budgets. In that regard, the individual justice sector institutions will need to take into consideration the basic guiding principles as elaborated below when preparing their institutional strategic plans.

### ***Guiding Principles for Institutional Strategic Planning***

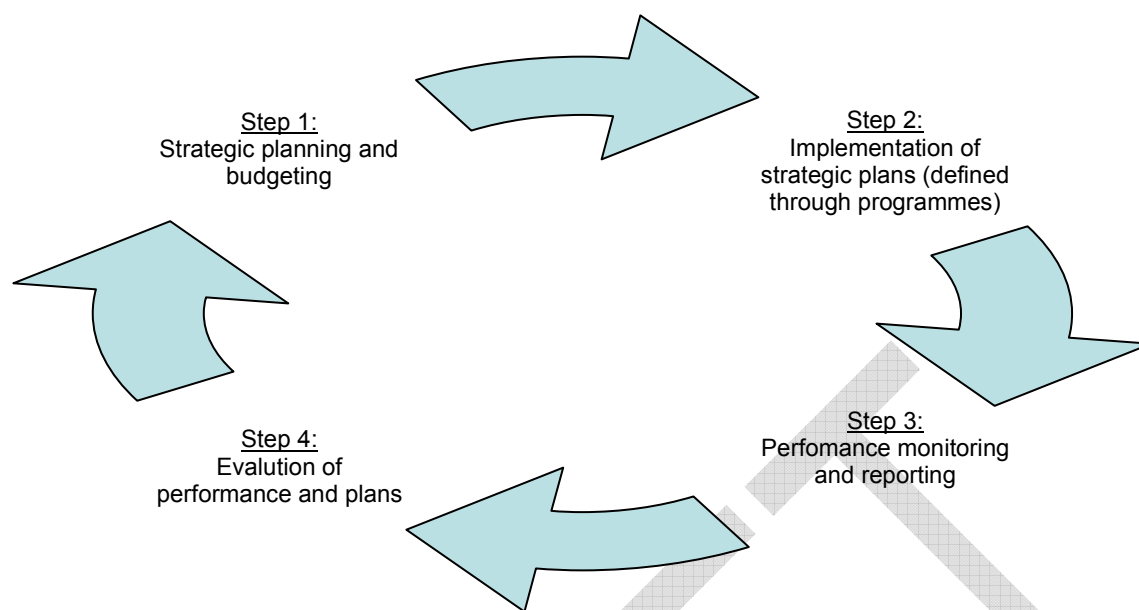
It should be noted that the JSRS is only the first step in a continuous cycle of strategy development, planning and implementation of interventions for the ministries of justice (including the Brcko District Judicial Commission), and more generally the governments in Bosnia and Herzegovina. Additional effort and resource needs to be committed by all other justice sector institutions to monitor and assess achievement of the JSRS objectives.

In relation to the JSRS the institutional strategic plans of the justice sector institutions serves a number of distinct, though related purposes:

- To **link the current mandates** of the justice sector institutions with the objectives and priorities as set forth by the JSRS;
- To provide a context to **link the budget process** and other legislative processes with priority issues as identified in the JSRS;
- To provide the **basis for aligning resources** in a rational manner to address the issues faced by the justice sector in Bosnia and Herzegovina;
- To establish a **means of coordinating policy concerns** of public officials with implementation efforts, and to build relevant inter-governmental and other **partnerships** with civil society and the private sector, as well as
- To provide a mechanism for **communicating achievements** to the citizens of Bosnia and Herzegovina.

Institutional, as well as sectoral, strategic planning is only one of the key steps in applying a strategic management approach to planning, budgeting and service delivery that takes into consideration the dynamics of changes within and without institutions and the sectors to which they belong. The steps to strategic management are presented graphically in the figure below:

**Figure 9: Strategic management approach to planning, budgeting and service delivery**



The key aspects to bear in mind for each of these steps are described in summary in the following sub-sections.

#### Structure of Institutional Strategic Plans

At minimum institutional strategic plans should include the following:

- **Mission statement:** This provides a concise overview of the purpose of the institution, key roles and responsibilities. This should clarify **why** the institution does **what**, and for **whom** and **how**, in an easy and understandable way;
- **Situation analysis:** This is based on an analysis of data and trends affecting the mission of the institution, this section should indicate the context in which the plan is being developed. The analyses against the institution's mission should draw upon recognised methodologies for appraisal where possible, (such as strength, weaknesses, opportunities and threats (SWOT) and political, economic social and technical (PEST) approaches);
- **Strategic objectives:** These shall describe the ends to which the institution will strive over the planning period. The strategic goals shall describe the measurable achievements that the institution will aim to attain over the period covered by the Strategic Plan (usually three to five years). Key performance indicators and targets need to be specified for the strategic objectives. Ideally, these should be time-bound, and specify dates if to be achieved within the planning period. Minimum performance standards should also be specified;

- **Description of strategic issues:** The problems and barriers to achieving the strategic objectives shall be described. These should be focused and related directly to the strategies and interventions that will be applied by the institution;
- **Strategies and key policy interventions:** The strategies should summarise the direction that will be taken by the ministry over the planning period in overcoming the strategic issues identified above to meet the strategic goals. Any policy changes which will be needed to directly influence the strategies should be described also;
- **Programmes:** This section shall provide more detail on the key implementation actions that will be undertaken by the institution in support of its strategies. These interventions should be grouped in relation to the strategic objectives which they intend to address. Ideally, each programme should, at a minimum, be described to include the following highlights:
  - **Operational objectives** (including performance targets and indicators for these objectives) and how they relate to the strategic objectives;
  - **Outputs** that will be directly produced by the programme, and the **timescale** for their delivery;
  - The **inputs** required (in terms of physical and human resources);
  - Which organizational unit of the institution will be responsible for **managing delivery**, as well as details of other government bodies needed to achieve coordinated inputs, where cross-cutting aspects exist;
  - The expected **costs** of undertaking the programme, providing financial details in the format required for annual budget submissions.

There may be ongoing services or tasks undertaken by the ministry which are recurrent items. Insofar as these are to be aligned to the achievement of the strategic objectives, these should be described in the manner above.

- **Monitoring and evaluation arrangements:** This section of the institutional strategic plan shall describe the framework in which the performance targets and indicators of performance at the programme level and at the overall strategic objective level will be managed by the institution. The monitoring and evaluation framework shall include mechanisms for independent verification of key performance indicators and the resources needed for this.

Although the plan should be completed in a uniform structure, the length and detail can be documented as deemed fit by the institution for its purposes. In this respect the Strategic Plan is meant to be a tool that is used within the institution to organise its operational activities and work load, as well as plan and demonstrate how it will, within the scope of its mandate and resources limitation contribute to the achievement of the JSRS. This is why each of the sections of the institutional strategic plans listed above should reflect upon the JSRS.

### Ongoing management and coordination

Implementation of programmes and activities outlined in the institutional strategic plans remain the responsibility of the individual institutions. However, there are several features that should be explicitly acknowledged during implementation. These include the need to:

- Coordinate with other ministries, agencies and organisations of government during delivery; and
- Consult and communicate regularly with stakeholders (both internal and external) on the implementation and performance of the plan.

The organisation of these activities does not need to take a rigid form, and are likely to vary according to the specific requirements of the intervention planned by the respective institutions. Nonetheless, the approach taken by each institution to undertake these tasks should be clearly documented and annexed to their strategic plans.

### Revisions to the institutional strategic plans

Strategic plans are not static documents that should be reviewed once every three to five years. It is an integral part of the strategic management of the institutions operations and ties in closely with the annual plan that is submitted to the respective governments in Bosnia and Herzegovina and to the annual budgets submissions to the ministries of finance. It thus needs to ensure that institutional strategic objectives and considerations continue to be aligned to the changing environments as well as to long term justice sector aspirations as defined by the JSRS and all subsequent revisions to it. Indeed, the institutional strategic plans should represent a key sub-component within the overall framework of the JSRS.

Significant changes to the institution's objectives, strategies and programmes, which may occur over the period covered by the plans, should be made through formal revisions to the strategic plans. At the minimum the institutional strategic plans should be reviewed by the management of the institution annually at the same time as the annual plan and budget is produced to ensure that it remains relevant to its objectives.

### Performance monitoring

A continuous assessment of performance is a critical part of the ongoing management cycle. Justice sector institutions should establish a performance monitoring framework for gauging the attainment of plan targets and the utilisation of resources. Monitoring is the continuous assessment of implementation of institutional strategic plans in relation to agreed delivery schedules, and of the use of planned inputs. Likewise, the performance monitoring framework serves to inform the respective governments and legislative bodies, as well as other stakeholders including other justice sector institutions, the media and the public about the performance of the institution in performing its mandates. Good practise indicate that six monthly and yearly progress monitoring reports are the principal formal accountability mechanisms.



### Evaluation of institutional strategic plans

The final key step in strategic planning is the application of an evaluation framework. Whilst performance monitoring allows for the supervision of operational performance on an ongoing basis, evaluation provides a more comprehensive assessment. Indeed, evaluation is the periodic assessment of an intervention's relevance, performance, efficiency, and impact in relation to stated objectives as well as to the overall JSRS.

Evaluation necessarily involves consultation with stakeholders. Therefore this process plays an important role in the relationship between institutions of government and the communities they serve. The evaluation process potentially facilitates meaningful and constructive dialogue in the development of government services.

Whilst it may be the last step in the strategic management cycle the evaluation framework should be designed and planned for from the beginning. In particular, planners must be clear about what the planned interventions must achieve, and reflect this clarity of vision in the appointment of targets and selection of performance indicators to measure the attainment of targets.

Moreover, an overall evaluation of the JSRS will be undertaken, firstly, on an annual basis, and then to lesser frequency once the planning process has been successfully integrated throughout the justice sector in Bosnia and Herzegovina. Consequently, each institution shall need to delineate in its strategic plan its intentions to undertake an evaluation of its strategic plans. Appropriate financial resources should be set aside for evaluation tasks, if deemed necessary by the institution.

### Strategic planning as an integral part of overall operations in the institutions

Regardless of how simplistic the approaches to introducing strategic management approaches to planning, budgeting and service delivery are taken by each of the institutions in the justice sector, the challenges and requirements that the approaches described above should not be underestimated. In order to reap from all the benefits that stem for strategic management and from linking initiatives of individual justice sector institutions to the initiatives planned and agreed through the JSRS development process, it is necessary that, firstly, the management of the institution is committed to strategic planning.

This means that resources (including not only financial and material, but also time) must be made available to the team responsible for developing, monitoring and evaluating the strategic plans. Ideally, there should be an organizational unit within the institution (that organizationally are linked to the most senior managerial positions in the institution, like the secretary of a ministry for instance) that will be solely responsible for strategic planning (in close coordination with other organizational units of the institution).

However, in circumstances where this type of arrangement is not possible (due to staffing or budgetary constraints) the top operational managers of the institution (i.e. heads of departments or assistant ministers) together with the highest managerial level in the institution become the core strategy team, with each, within their own capacities, contributing to developing, monitoring and evaluating strategic plans. But in these cases the ultimate burden for strategic planning then falls on the senior operational manager (like the secretary of a ministry or court president and similar). Strategic planning then becomes an integral part of the institutions operations and something that ultimately links into ongoing activities of the institution.

## ANNEX 1

In line with the strategic framework approved by ministers of justice of Bosnia and Herzegovina and entities and the President of the Judicial Commission of Brčko District and as defined in the Joint Statement signed by them, the following Working Groups were established comprising of the representatives from the below listed domestic institutions:

Working Group	Strategic Areas	Institutions invited to participate in the Working Group	Dates of meetings	WG representatives who attended the meetings
Judicial System	<ul style="list-style-type: none"> <li>Independence and Harmonisation</li> <li>Efficiency and Effectiveness</li> <li>Accountability and Professionalism</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Justice of Bosnia and Herzegovina</li> <li>Ministry of Justice of the Federation of BiH</li> <li>Ministry of Justice of the Republika Srpska</li> <li>Brčko District Judicial Commission</li> <li>Ministry of justice and administration of Tuzla Canton</li> <li>High Judicial and Prosecutorial Council</li> <li>Association of judges of Bosnia and Herzegovina</li> <li>Association of judges of Federation of BiH</li> <li>Association of judges of the Republika Srpska</li> <li>Association of prosecutors of Bosnia and Herzegovina</li> <li>Association of prosecutors of the Federation of BiH</li> <li>Association of prosecutors of the Republika Srpska</li> <li>Bar Association of the Federation of BiH</li> <li>Bar Association of the Republika Srpska</li> <li>Registrar Office of the Court of Bosnia and Herzegovina</li> </ul> <p><u>Observers:</u></p> <ul style="list-style-type: none"> <li>Office of the High Representative (OHR)/European Union Special Representative (EUSR),</li> <li>Council of Europe (CoE),</li> <li>American Bar Association Rule of Law Initiative (ABA ROLI),</li> <li>Office for Security and Cooperation in Europe (OSCE),</li> <li>United States Agency for International Development (USAID)</li> <li>Justice Sector Development Program (JSDP).</li> </ul>	<p>16–18 May 2007</p> <p>20–22 June 2007.</p>	<ul style="list-style-type: none"> <li>Dragiša Jokić, Bar Association RS;</li> <li>Enes Kamenica, Judges Association FBiH;</li> <li>Fatima Bašić, Ministry of Justice BiH;</li> <li>Ruzmira Bajrić, Ministry of Judicial Affairs Tuzla Canton;</li> <li>Ljiljana Filipović, HJPC;</li> <li>Miroslav D. Marković, Prosecutors Association BiH;</li> <li>Nada Majinović, Brčko District Judicial Commission;</li> <li>Nataša Vuković, Office of the Registrar, BiH State Court;</li> <li>Nikola Kovačević, Ministry of Justice RS;</li> <li>Pero Škipina, Judges Association RS;</li> <li>Ranka Mršić, Prosecutors Association RS;</li> <li>Stanko Nuić, Prosecutors Association RS;</li> <li>Sven Urke, HJPC; Vildana Helić, Judges Association FBiH.</li> <li>Arben Murtezić, HJPC;</li> <li>Eddie Gratz, MoJ BiH;</li> <li>Izo Tankić, Association of Judges BiH;</li> <li>Ljiljana Filipović, HJPC;</li> <li>Nada Majinović, Brčko District Commission;</li> <li>Nataša Vuković, Office of the Registrar, BiH State Court;</li> <li>Nikola Kovačević, Ministry of Justice RS;</li> <li>Ruzmira Bajrić, Ministry of Judicial Affairs, Tuzla Canton;</li> <li>Sven Urke, HJPC; Vildana Helić, Association of Judges FBiH.</li> </ul>

Working Group	Strategic Areas	Institutions invited to participate in the Working Group	Dates of meetings	WG representatives who attended the meetings
Execution of Criminal Sanctions	Management of the System Prison Overcrowding Application of International Standards	<ul style="list-style-type: none"> <li>Ministry of Justice of Bosnia and Herzegovina</li> <li>Ministry of Justice of the Federation of BiH</li> <li>Ministry of Justice of the Republika Srpska</li> <li>Brčko District Judicial Commission</li> <li>Association of penologists of Federation of BiH</li> <li>Association of penologists of Republika Srpska</li> </ul> <p><u>Observers:</u></p> <ul style="list-style-type: none"> <li>Council of Europe;</li> <li>OHR/EUSR</li> </ul>	10 – 11 May 2007	<ul style="list-style-type: none"> <li>Duško Šain, Ministry of Justice RS;</li> <li>Milanko Renovica, Ministry of Justice BiH;</li> <li>Milutin Tijanić, Association of Penologists RS;</li> <li>Rešad Fejzagić, Ministry of Justice FBiH;</li> <li>Smaila Kikić, Brčko District Judicial Commission;</li> <li>Zulfikar Bojičić, Association of Penologists FBiH</li> </ul>
Access to Justice	International Legal Aid and Cooperation Free Legal Aid and Access to Legal Information Care of Court Users and Role of Civil Society	<ul style="list-style-type: none"> <li>Ministry of Justice of Bosnia and Herzegovina</li> <li>Ministry of Justice of the Federation of BiH</li> <li>Ministry of Justice of the Republika Srpska</li> <li>Brčko District Judicial Commission</li> <li>Ministry of justice of Una-Sana Canton</li> <li>Bureau for Legal Aid of Zenica-Doboj Canton</li> <li>High Judicial and Prosecutorial Council</li> <li>Association of judges of Bosnia and Herzegovina</li> <li>Association of judges of Federation of BiH</li> <li>Association of judges of the Republika Srpska</li> <li>Bar Association of the Federation of BiH</li> <li>Bar Association of the Republika Srpska</li> <li>Registrar Office of the Court of Bosnia and Herzegovina</li> <li>NGO "Vaša Prava"</li> </ul> <p><u>Observers:</u></p> <ul style="list-style-type: none"> <li>OSCE,</li> <li>USAID JSDP,</li> <li>ABA ROLI,</li> <li>OHR/EUSR</li> </ul>	24 – 25 May 2007	<ul style="list-style-type: none"> <li>Snježana Marjanac, RS Ministry of Justice,</li> <li>Džemaludin Mutapčić, FBiH Ministry of Justice,</li> <li>Nada Majinović, President, Brčko Judiciary Commission,</li> <li>Amina Ruždić, Lawyer, HJPC,</li> <li>Fatima Bašić, Head of unit for judicial bodies at the state level, Ministry of Justice BiH,</li> <li>Nikola Sladoje, Assistant Minister, Ministry of Justice BiH,</li> <li>Džemerina Memagić, Director, Cantonal Legal Aid Office, Zenica-Doboj Canton,</li> <li>Vahid Čoralić, Ministry of Judicial Affairs, Una-Sana Canton,</li> <li>Vildana Helic, President, Judges Association, FBiH,</li> <li>Nataša Vuković, Special Adviser for relations with the Ministries of Justice, Office of the Registrar, BiH State Court,</li> </ul>

Working Group	Strategic Areas	Institutions invited to participate in the Working Group	Dates of meetings	WG representatives who attended the meetings
Support to Economic Growth <sup>12</sup>	Mediation and Other Forms of ADR	<ul style="list-style-type: none"> <li>Ministry of Justice of Bosnia and Herzegovina</li> <li>High Judicial and Prosecutorial Council</li> <li>Association of mediators of Bosnia and Herzegovina</li> <li>Bar Association of the Federation of BiH</li> <li>Bar Association of the Republika Srpska</li> <li>Centre for Training of Judges and Prosecutors of the Federation of BiH</li> <li>Centre for Training of Judges and Prosecutors of Republika Srpska</li> </ul> <p><u>Observers:</u></p> <ul style="list-style-type: none"> <li>International Finance Corporation (IFC),</li> <li>JRP,</li> <li>OHR/EUSR</li> </ul>	29 – 30 May 2007	<ul style="list-style-type: none"> <li>Biljana Marić, JTPC RS,</li> <li>Dragiša Jokić, Bar Association RS,</li> <li>Fatima Bašić, Ministry of Justice BiH,</li> <li>Gordana Osmančević, HJPC,</li> <li>Obren Bužanin, Association of Mediators BiH</li> </ul>
	Reform of Land Registry System	<ul style="list-style-type: none"> <li>Ministry of Justice of Bosnia and Herzegovina</li> <li>Ministry of Justice of the Federation of BiH</li> <li>Ministry of Justice of the Republika Srpska</li> <li>High Judicial and Prosecutorial Council</li> </ul> <p><u>Observers:</u></p> <ul style="list-style-type: none"> <li>SIDA Land Registry Project</li> <li>OHR/EUSR</li> </ul>	31 May – 1 June 2007	<ul style="list-style-type: none"> <li>Momir Zubac, Head of Detention Unit, Ministry of Justice BiH;</li> <li>Ediba Taftro, Expert Associate, MoJ FBiH;</li> <li>Nikola Kovacevic, Assistant Minister, Ministry of Justice RS;</li> <li>Elmira Pasagic, Secretariat Director, HJPC</li> </ul>
Well-managed and Coordinated Sector	Coordination of Competencies Strategic Planning and Policy Development Donor Coordination and EU Integration	<ul style="list-style-type: none"> <li>Ministry of Justice of Bosnia and Herzegovina</li> <li>Ministry of Justice of the Federation of BiH</li> <li>Ministry of Justice of the Republika Srpska</li> <li>Brčko District Judicial Commission</li> <li>Ministry of justice and Administration of Tuzla Canton</li> <li>Ministry of Justice and Administration of Posavina Canton</li> <li>High Judicial and Prosecutorial Council</li> </ul> <p><u>Observers:</u></p> <ul style="list-style-type: none"> <li>OSCE,</li> <li>OHR/EUSR,</li> <li>JRP,</li> <li>JSDP</li> </ul>	12 and 13 June 2007	<ul style="list-style-type: none"> <li>Jasmina Mijatović, Ministry of Judicial Affairs, Tuzla Canton,</li> <li>Jusuif Halilagić, Ministry of Justice BiH;</li> <li>Milana Popadić, Ministry of Justice BiH;</li> <li>Safeta Sejdić, Ministry of Judicial Affairs, Posavina Canton;</li> <li>Sven Urke, HJPC.</li> </ul>

<sup>12</sup> This Working Group included members of existing professional working groups for land registry administration reform and programme for alternative dispute resolution.

### ***Steering Board Meetings***

The first steering board meeting took place on 19 June 2007, and was attended by Barisa Colak, BiH Ministry of Justice, Dzerald Selman, RS Ministry of Justice; Feliks Vidovic, FBiH Ministry of Justice; Nada Majinovic, President, Brcko Judicial Commission Jasmina Mijatović, Ministry of Judicial Affairs, Tuzla Canton; Safeta Sejdić, Ministry of Judicial Affairs, Posavina Canton, and Niko Grubescic, BiH Ministry of Justice. The only absentee was Branko Peric, President, HJPC.

The second steering board meeting took place on 10 July 2007. It was attended by all steering board members: by Barisa Colak, BiH Ministry of Justice, Niko Grubescic, BiH Ministry of Justice, Dzerald Selman, RS Ministry of Justice; Feliks Vidovic, FBiH Ministry of Justice; Nada Majinovic, President, Brcko Judicial Commission Jasmina Mijatović, Ministry of Judicial Affairs, Tuzla Canton; Safeta Sejdić, Ministry of Judicial Affairs, Posavina Canton; and Mladan Jurisic, member of the HJPC.

## ANNEX 2

### ***Public Consultation regarding the Justice Sector Reform Strategy***

The process of developing the Sector Strategy has been highly participative and consultative, facilitating input into the Strategy from justice sector institutions, the non-governmental sector, and the wider public in BiH. Below is an outline of the consultation activities which have taken place in each phase of the project:

#### *Overview of Consultation Activities in Phase 1: September 2006 – February 2007*

Review of existing legal framework, strategies and other relevant documents;  
Stakeholder analysis;  
Consultations with BiH Ministry of Justice Heads of Sectors;  
Structured interviews with core justice sector institutions;  
Development of a discussion paper, *Stakeholders and consultation for the development of the Justice Sector Reform Strategy in BiH*;  
Roundtable stakeholder presentation of the Sector Strategy project, methodology, initial findings, key justice sector strategic issues and next steps.

#### *Overview of Consultation Activities in Phase 2: March and April 2007*

Meeting with the BiH, FBiH and RS Ministers of Justice, President of the Brcko Judicial Commission and the HJPC President to sign off on a Joint Statement regarding the development of the Sector Strategy.

#### *Overview of Consultation Activities in Phase 3: May - August 2007*

Expert Working Group meetings to develop goals and programmes for the following strategic issues: 1. Judicial System; 2. Execution of Criminal Sanctions; 3. Access to Justice; 4. Support to Economic Growth; and 5. Coordinated and Well Managed Sector;  
Steering Board Meetings to approve the outcomes of the Working Groups.

See Annex 1 for more details.

#### *Overview of Consultation Activities in Phase 4: September – November 2007*

Development of the draft Sector Strategy and approval by Steering Board;  
Public consultation: 21 day consultation period during which any interested party may submit comments on the draft Sector Strategy to the BiH Ministry of Justice; local focus groups in Sarajevo, Mostar, Banja Luka and Brcko;  
Presentation of the public response to the draft Sector Strategy to the Steering Board;  
Drafting of final Sector Strategy and approval by Steering Board.